



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.06.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3288 of 2006
and M.P.No.4 of 2006

The Oriental Insurance Co.Ltd.,
U.I.L.Building, No.8, Esplanade,
Near High Court,
Chennai-108.

... Appellant/2nd Respondent

Vs

1.J.V.Ramachandran
2.Ramani

...Respondents 1 & 2/
Claimants 1 & 2

3.Y.Muthumari

...3rdRespondents/Ist respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 01.11.2004 made in MCOP No.304 of 1999 on the file of the Motor Accidents Claims Tribunal (Additional District Judge), FTC-II Kancheepuram.

For Appellant : Mr.J.Chandran

JUDGMENT

This appeal is preferred by the Insurance Company against the award of a sum of Rs.72,500/- towards compensation to the first and second respondents, due to the death of their mother.

2.The case in brief, is as follows:

The mother of the respondents 1 and 2, as an agent of the goods, and some others, were travelling in a Tempo Van bearing Reg.No.TN-74-7277 on 23.05.1999 from Madras towards Kancheepuram in the GWT Road, Kancheepuram. At about 8.30 p.m., the driver of the van drove it in a rash and negligent manner and due to the same, the van dashed against a parked lorry near Pompon Oil Mill. Due to the said impact, the occupants of the van, including the mother of the respondents 1 and 2 herein, sustained grievous injuries. They were taken to the hospital and



thereafter, the mother of the respondents 1 and 2 herein, died in the hospital. The respondents 1 and 2, filed a claim petition before the Tribunal. On consideration of the evidence available on record, the Tribunal awarded a total compensation of Rs.72,500/- with interest at the rate of 9% per annum from the date of petition, to the claimants.

3.Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant has submitted that the deceased himself invited the accident by travelling as a passenger in the goods vehicle. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.Heard the learned counsel for the appellant.

6.Even though this appeal was admitted way back in the year 2006, the appellant Insurance Company has not taken any steps to serve papers to the other side. Ex.P1 is the true copy of the First Information Report, which shows that a complaint was given by one Balaji against the driver of the Tempo Van and the same was also registered. The driver of the van was not examined to speak about the accident. Considering the evidence of P.Ws.1 and 2, the Tribunal categorically came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of van, which this Court is not inclined to interfere. With regard to the quantum of compensation awarded by the Tribunal, the Tribunal has relied upon Ex.P2-Certified copy of Post Mortem Certificate of the deceased, adopted the multiplier of 5 and arrived at the conclusion that the deceased was earning a sum of Rs.50/- per day and thereafter awarded a sum of Rs.2,500/- towards loss of estate, Rs.5,000/- towards loss of love and affection, Rs.5,000/- towards funeral expenses, and a sum of Rs.60,000/- towards loss of income, totalling to Rs.72,500/-. The amounts awarded by the Tribunal under various heads are reasonable and hence the same are confirmed.

7.In view of the above stated circumstances, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Insurance Company is directed to deposit the award amount as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of six weeks



from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw the same, on making proper application before the Tribunal.

WEB COPY

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

KM

To

1.The Motor Accidents Claims Tribunal (Additional District
Judge),
Kancheepuram, FTC-II.

C.M.A.No.3288 of 2006
and M.P.No.4 of 2006

vd(co)
aa19/09/2019