

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3810 of 2005
and
C.M.P.No. 18961 of 2005

Branch Manager,
United India Insurance Co., Ltd.,
South Street,
Chidambaram.

... Appellant/Ind Respondent

Vs.

1. Manoharan
2. Kalaiselvi
3. Nandakumar
4. Ganesh

... Respondents/Petitioners 1,2
& RR1 and 3 in Tribunal

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.10.2003 made in M.C.O.P.No.246 of 2003 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Chidambaram.

For Appellant : Mrs.Revathi Muralidharan
For R1 & R2 : Mr.L.P.Balaji Ram
For R3 : No appearance
R4 : died

J U D G M E N T

This appeal is preferred by the appellant Insurance Company against the award of a sum of Rs.1,50,000/- towards compensation to the respondents 1 & 2 / claimants, due to the death of their son in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, i.e., on 27.09.2000, at about 4.30pm, the deceased stood near the fence in front of his house, a Tractor bearing registration No.TN 31 U 6774 belonging to the

third respondent and insured with the appellant insurance company, came in a rash and negligent manner and hit the deceased from behind. As a result of the same, the said deceased sustained head injuries and died on the spot. The father and mother, who are the legal heirs of the deceased, filed the aforesaid claim petition seeking compensation of Rs.3,00,000/-. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,50,000/- with interest at the rate of 9% per annum from the date of petition. Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

3.The learned counsel for the appellant Insurance Company has disputed only the liability fastened on the insurance company on the ground that there was violation of the policy conditions as the tractor was towing an un-registered two wheeler tipper at the time of accident, without any specific endorsement and hence, the appellant insurance company is not liable to pay compensation.

4.The learned counsel for the respondents/claimants has submitted that the Tribunal, after evaluation of the oral and documentary evidence available on record, has rendered its findings on negligence and liability and awarded the just compensation and hence, the same do not call for any interference by this Court.

5.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

6.Since the appellant Insurance Company has not disputed the manner in which the accident took place, the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the Tractor, need not be interfered with by this Court.

7.It was putforth on the side of the appellant insurance company before the Tribunal that as per the First Information Report, the driver of the tractor drove the vehicle by towing an unregistered tipper trailer without any authorisation, which is violation of the policy conditions and hence, they were not liable to pay compensation. To substantiate the said contention, they examined three witnesses as R.W.1 to R.W.3. However, the Tribunal has taken note of the evidence of R.W.3/driver of the tipper which correlated with the evidence of P.W.2/eyewitness to the occurrence and has opined that the tractor ran over the deceased and thereby caused the accident and hence, rightly fastened the liability on the appellant insurance company, which finding this Court is not inclined to interfere.

8.Since the quantum of compensation awarded by the Tribunal has not been disputed by the appellant insurance company, the same is confirmed as such.

9.In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant-Insurance Company is directed to deposit the entire compensation of Rs.1,50,000/- with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the respondents 1 and 2 /claimants are permitted to withdraw their respective shares as apportioned by the Tribunal on making proper application.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

1. Motor Accident Claims Tribunal,
Additional District Judge,
Chidambaram.

Copy to

The Section Officer,
VR Section,
High Court,
Madras.

+1 cc to Mr.L.P.Balaji Ram Advocate sr63753

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