

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A.No.3632 of 2006 and
M.P.No.2 of 2006

United India Insurance Company Limited,
Kumar Complex, 146/N, 2nd Floor,
Tiruchencode, Rajaji District. Appellant / 2nd Respondent

Versus

1. Poova Gounder
2. Thaiyammal .. Respondents 1 & 2 / Petitioners
3. R. Palanisami .. 3rd Respondent / Owner of the vehicle
4. C. Ramasami .. 4th Respondent / Respondent

Prayer: This Appeal has been filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 30.12.2004 made in M.C.O.P.No. 5295 of 1998 on the file of the Motor Accident Claims Tribunal (2nd Judge, Court of Small causes) at Chennai.

For Appellant : Mr. R. Ravichandran

For Respondents 1 and 2 : Mr. Jothimanian

For Respondents 3 and 4 : Ex parte

J U D G M E N T

Challenging the negligence as well as the quantum of compensation awarded by the Claims Tribunal, in M.C.O.P.No. 5295 of 1998 and M.C.O.P.No. 5295 of 1998 on the file of the Motor Accident Claims Tribunal, 2nd Judge, Court of Small causes at Chennai, the appellant has preferred this appeal.

2. On 01.02.1997 at about 7.20 p.m in Peters Road, Chennai when the deceased Arumuga Gounder along with several persons were proceeding in a Bus bearing Registration No. TAM 6406, the driver of the bus rashly and negligently, dashed the bus on a tree. In the result the deceased sustained grievous injuries and died. Hence, the first and second respondent herein who are the

legal heirs of the deceased filed a claim petition before the Motor Accident Claims Tribunal, 2nd Judge, Court of Small causes at Chennai, seeking compensation for a sum of Rs.2,00,000/-. The Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.1,24,068/- payable with interest at the rate of 9% per annum.

3. Challenging the same as excessive and disproportionate, the appellant has filed this appeal.

4. Heard the arguments of counsel for the appellant and perused the materials available on record. Though notice was ordered to the respondents 3 and 4, the same is yet to be completed for service.

5. As far as the award of compensation is concerned, the Tribunal has applied its mind and awarded compensation properly, which do not warrant interference by this Court.

6. The driver of the vehicle rashly and negligently dashed the bus on a tree therefore, the accident took place. The other persons who were sitting in the top portion of the roof of the bus is totally illegal. But admittedly it is the act of god, as there was not enough space inside the bus they were sitting in the top roof of the bus and hence they sustained injuries. Due to the bus touching on a tree by the bus driver and later on the injured died.

7. The Tribunal has considered the case in proper manner. Admittedly the award of Rs.1,24,068/- was very low and no appeal was filed by the claimant, the appellant insurance company challenged the said award which is very minimum amount for a death of a person.

8. Upon perusing the entire award of the Tribunal, it is seen that the Tribunal entered into its findings based on oral and documentary evidence before it and has awarded a just and fair compensation, which need not be interfered with by this Court in this appeal and the quantum of compensation assessed by the Tribunal, cannot be said to be improper. Since, the Tribunal has applied its mind properly and granted the award with the correct head which is well considered order.

9. In the result,

(a) this appeal is dismissed and the Judgment and Decree of the Tribunal in M.C.O.P.No.5295 of 1998, dated 30.12.2004 is confirmed.

(b) the appellant/Insurance Company is directed to deposit amount as awarded by the Tribunal with interest at the rate of 9% within a period of 8 weeks from the date of receipt of copy of this order and recover the same from the 3rd respondent/owner of the vehicle.

(c) On such deposit the first and second respondent is permitted to withdraw the amount as per the directions of the Tribunal, by way of filing proper application before the Tribunal.

(e) There will be no order as to costs.

(f) Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To.

- 1) The Motor Accident Claims Tribunal,
2nd Judge, Court of Small causes, Chennai
- 2) The Section Officer,
VR Section, High Court, Madras.

C.M.A. No.3632 of 2006

M.P.No.2 of 2006

CNR(CO)
SSM(11/10/2019)

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