

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.NO.403 OF 2006

AND

C.M.P.NO.1318 OF 2006

T.A.S.Mansoor .. Appellant/1st Respondent

Vs

1. Amirtham

2. Muthamilselvan

3. Senthamilselvan

... RR1 to 3/Petitioners

4. The Branch Manager
United India Insurance Co Ltd
City Branch, 3-E,
Balavinayagar Koil Street
Tuticorin.

... R4/R2

5. The Managing Director
TNSTC Cuddalore Panimanai-II
Villupuram Kottam.

... R5/R3

6. The Manager
Branch Officer
National Insurance Co Ltd
Trichy.

... R6/R4

Prayer:

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 12.12.2003 made in MCOP No.435 of 2000 on the file of the Motor Accidents Claims Tribunal, District Court, Perambalur.

For Appellant : Mr.M.Ajmal Khan

For R1 to R3 : Ms.M.Jayashree (Legal Aid Counsel)

For R4 : Mr.S.Arunkumar

For R5 : Mr.K.J.Sivakumar

J U D G M E N T

In an accident that took place on 20.06.1999, one Shanmugam, who was travelling in a bus bearing Reg.No.TN32 N 0759 from Trichy to Titagudi, which was dashed against a Trailer lorry bearing Reg.No.TN04 6626, sustained severe injuries in all over the body and died subsequently on the way to hospital. Stating that the accident had occurred due to the rash and negligent driving of the driver of the lorry, the legal representatives of the deceased Shanmugam filed a claim petition, claiming compensation. The Tribunal, on the basis of the materials and evidence available on record, has awarded a total compensation of Rs.2,92,500/- (wrongly stated as Rs.2,92,000/-) with interest at 9% pa payable by the owner of the Trailer lorry to the claimants. Aggrieved over the same, the owner of the lorry has filed this appeal.

2. When the appeal is taken up for hearing, the learned counsel for the appellant reported no instructions from his client. Hence, this Court is inclined to dispose of this appeal on merits.

3. It is stated in the grounds of appeal that without considering the materials and evidence adduced by the parties, the Tribunal erred in fastening the liability on the appellant; and the award of Rs.2,92,000/- by the Tribunal is on the higher side.

4. The learned counsel for the respondents 1 to 3/claimants, the learned counsel for 4th respondent/insurer of the trailer lorry and the learned counsel for the Transport Corporation bus, on the whole, submitted that the Tribunal, after analysing the materials and evidence available on record, has fastened the liability on the appellant/owner of the Trailer lorry and has arrived at the just compensation and hence, the same do not call for any interference by this Court.

5. Heard all the parties and perused the available materials.

6. There is no dispute as to the factum of accident between the trailer lorry and the bus. The Tribunal has analysed the nexus between the oral witnesses and the First Information Report and other documents produced by the claimants. Further, it is to be noted that RW2/driver of the Trailer lorry has admitted his guilt and paid fine amount before the Criminal Court. That apart, the staff of the Insurance Company, with whom the Trailer lorry was insured, has been examined as R.W.1 and from his evidence, it came to light that the insurance policy was valid for the period from 25.05.1998 to 24.05.1999, whereas

the date of accident was 20.06.1999; and the owner of the Trailer lorry failed to renew the Insurance policy, which has become fatal to the case of the appellant herein. Considering all the above aspects, the Tribunal has rightly come to the conclusion that the accident had happened only due to the rash and negligent driving of the driver of the Trailer lorry; since no insurance was available at the time of accident, the owner of the vehicle has to compensate the claimants; the insurer of the vehicle was exonerated from the liability. The said findings of the Tribunal, in the opinion of this Court, are based on the materials and evidence available on record and hence, the same need not be interfered.

7. As regards the quantum of compensation, the Tribunal has awarded Rs.2,88,000/- (Rs.36,000 x 8) towards loss of contribution to the family of the deceased, Rs.2,000/- towards funeral expenses and Rs.2,500/- towards loss of estate, in totalling Rs.2,92,500/- (wrongly stated as Rs.2,90,000/- in the award), which is just and reasonable and it cannot be treated as excessive and exorbitant, as the same is quantified based on the oral and documentary evidence let-in by the respondents/claimants and hence, the same warrants no interference by this Court.

8. In such view of the matter, this Civil Miscellaneous Appeal stands dismissed. No costs. The appellant is directed to deposit the entire award amount of Rs.2,92,500/- with interest and costs, after deducting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the same to the respective Savings Bank Accounts of the claimants/respondents 1 to 3 herein, through RTGS, within a period of one week thereafter, as per the ratio of apportionment made by the Claims Tribunal. Consequently, connected Miscellaneous Petition is closed.

सत्यमेव जयते
Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

srk/vrn /rk

To

1. The District Judge,
The Motor Accidents Claims Tribunal,
District Court, Perambalur

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

+1cc to Mr.M.Ajmal Khan, Advocate, S.R.No.56430
+1cc to Mr.S.Arunkumar, Advocate, S.R.No.56645
+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.56814

C.M.A.No.403 of 2006

EV (CO)
CS/23/07/2020



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