

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.06.2019

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.718 of 2006
and
C.M.P.No.2936 of 2006

Divisional Manager,
Oriental Insurance Co. Ltd.,
S.V.Complex, Eswaran Koil Street,
Pondicherry. ... Appellant/2nd Respondent

Vs.

1.Pothuraja @ Patturaja
2.Kanniammal
3.Rani ... Respondents 1 to 3/
Petitioner 1 to 3
4.K.Pandurangan
(4th respondent ex-parte
before Lower Court) ... 4th Respondents/
Respondent No.1

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 06.03.2003 made in M.C.O.P.No.345 of 2002 on the file of Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.2, Cuddalore.

For Appellant : Mr.N.Vijayaraghavan

For R1 : Mr.V.Srinivasan

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 06.03.2003 made in M.C.O.P.No.345 of 2002 on the file of Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.2, Cuddalore.

Brief facts:-

2.In respect of an accident that took place on 09.06.1995 at about 05.30 hours, Veerammal @ Muniyammal, aged 45, a coolie,

sustained injuries all over the body and succumbed to the injuries. Alleging that the accident had taken place only due to the rash and negligent driving of the lorry in which the deceased was travelling, the legal representatives of the deceased have filed a petition claiming a compensation of Rs.2,00,000/-.

3.The Tribunal, based on the materials available on record, has awarded a sum of Rs.1,81,000/- as total compensation payable to the claimants by the appellant herein.

4.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the first respondent.

5.The learned counsel for the appellant/Insurance Company submitted that the deceased was an unauthorized occupant in the goods vehicle which fact was eschewed by the Tribunal and hence the Tribunal erred in fastening the liability on the insurer.

6.This Court has considered the said submission and perused the materials available on record.

7.A perusal of the award passed by the Tribunal would go to show that the Tribunal has considered the evidence of P.W.5 Pattu Raja who has stated that his wife / deceased at the time of accident, was aged 45 and she was earning a sum of Rs.70 per day. There is also an evidence available on record to the effect that the deceased was employed under the fourth respondent herein, as a coolie, and was earning per day a sum between Rs.50/- and Rs.100/- and on an average of monthly at Rs.1,500/-.

8.There is no contra evidence available either before the Tribunal or before this Court to arrive at a conclusion, other than what was arrived at by the Tribunal. This Court is of the opinion that the findings rendered by the Tribunal are based on evidence, both documentary and oral. Also, the Tribunal has applied the II Schedule of the Motor Vehicles Act to arrive at such compensation. Hence, the same does not require any interference at the hands of this Court. Thus, the compensation awarded by the Tribunal at Rs.1,81,000/- is confirmed as such.

9.In the result, the Civil Miscellaneous Appeal has no merits and therefore, this Civil Miscellaneous Appeal is dismissed.

10.The appellant / Insurance Company, in the above appeal, is directed to deposit the compensation amount, as awarded by the Claims Tribunal, along with interests 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 Tribunal shall transfer the amount to the Savings Bank Accounts of the injured / claimants, through RTGS, as apportioned by the Tribunal within one week thereafter. No costs. Consequently, the connected CMP is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

srk/gbi
To

1.The Additional District Judge,
Motor Accidents Claims Tribunal,
Fast Track Court No.2,
Cuddalore.

2.The Section Officer,
V.R.Section,
High Court,
Chennai.

+1 cc to Mr.N.Vijayaraghavan Advocate sr52944

+1 cc to Mr.S.Kalyanaraman Advocate sr52172

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