



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3453 of 2008

and

M.P.No.1 of 2008

National Insurance Company Ltd.,
Bodinayakanur Branch,
24, Kamaraj Bazar,
Bodinayakanur - 625 513.

.. Appellant

Vs.

1.Pavalavannan
2.Jayanthi
3.S.Purishothaman

.. Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 22.03.2007 made in M.C.O.P.No.25 of 2003 on the file of the Motor Accidents Claims Tribunal, Sub-Court, Panruti.

For Appellant : Mr.D.Bhaskaran

For R1 to R3 : No Appearance

J U D G M E N T

This Civil Miscellaneous Appeal arises out of the judgment and decree dated 22.03.2007 passed by the Motor Accidents Claims Tribunal, Sub-Court, Panruti, in M.C.O.P.No.25 of 2003.

2.The respondents 1 and 2/parents of one Usha, who died in a motor vehicle accident that took place on 07.03.2003, filed a claim petition, claiming a sum of Rs.2,00,000/- as compensation. The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident had occurred only due to rash and negligent act on the part of the driver of the Tractor with Tipper lorry bearing Regn.No.TN31 Z 2165 belonging to the third respondent and insured with the appellant-Insurance Company and ultimately awarded a total compensation of Rs.2,80,000/- with interest at 7.5%pa from the date of petition. Challenging the



same, the appellant insurance company has preferred this appeal.

3.The learned counsel appearing for the appellant-Insurance Company contended that the Tribunal erred in fixing the entire negligence on the driver of the tractor insured with the appellant insurance company. He also contended that the compensation awarded by the Tribunal is excessive and exorbitant and hence, the same has to be reduced substantially.

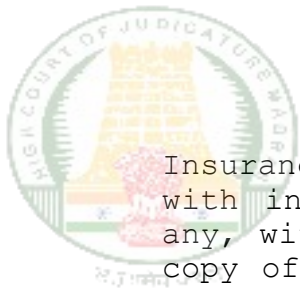
4.Heard the learned counsel appearing for the appellant and perused the materials available on record.

5.Despite the service of notice and the name of the respondents/claimants having been printed in the cause list, there is no representation on their behalf.

6.On a perusal of the award, it could be seen that PW2/eyewitness to the occurrence has deposed that the deceased Usha was standing beside the Tractor with Tipper vehicle at Kalathumedu, Panruti and she died, in the course of unloading the mud, due to the rash and negligent act on the part of the driver of the vehicle. Ex.P1 FIR was registered against the driver of the vehicle. Though it was contended on the side of the appellant insurance company that the deceased herself was responsible for the the accident and tipper was not insured with them, the Tribunal, taking note of the materials and evidence has rightly held that the accident had occurred due to the rash and negligent act on the part of the driver of the tractor and accordingly, fastened the liability on the insurer of the tractor viz., appellant insurance company, which this Court is not inclined to interfere.

7.As regards the quantum of compensation, the Tribunal, based on the oral and documentary evidence adduced by the respondents/claimants, has fixed the age of the deceased as 5 years as per Ex.P4/postmortem certificate and adopted the multiplier of 15 and awarded a sum of Rs.2,25,000/- (Rs.15,000/- X 15) towards loss of income, by taking her annual income notionally at Rs.15,000/-, which is just and reasonable and hence, the same need not be interfered by this Court. Further, the Tribunal has awarded Rs.25,000/- each towards loss of love and affection to the respondents 1 and 2 and Rs.5,000/- towards funeral expenses, which, in the opinion of this Court, are fair, just and reasonable and the same cannot be treated as excessive and exorbitant at any stretch of imagination and hence, the same warrant no interference.

8.Thus, affirming the award passed by the Tribunal, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant-



Insurance Company is directed to deposit the award amount along 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, the respondents 1 and 2 are permitted to withdraw their respective share of the award amount as apportioned by the Tribunal, with interest and costs, less the amount already withdrawn, if any, on making proper applications.

Sd/-
Assistant Registrar(I)

//True Copy//

Sub Assistant Registrar

gbi/rk

To

1. The Sub-Judge,
Motor Accidents Claims Tribunal,
Panruti.
2. The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to M/s.D.Bhaskaran, Advocate, S.R.No.53777

C.M.A.No.3453 of 2008
and
M.P.No.1 of 2008

RGN(CO)
SU(29/09/2021)