

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.1628 of 2009

National Insurance Co. Ltd.,
Krishnagiri Branch,
Krishnagiri.

...Appellant/2nd Respondent

vs.

1.P.Maniammal

2.P.Kanagadevi

3.P.Sundaramoorthy

4.P.N.Jayalakshmi ... Respondents/Petitioners

5.S.Madhan ... Respondents /1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 27.01.2009 passed in MCOP.No.1322 of 2002, on the file of the Motor Accidents Claims Tribunal, Principal District Court, Krishnagiri.

Appellant : Mr.N.Vijayaraghavan
R1 : Mr.P.Mani
R2 to R5 : No appearance

J U D G M E N T

The appellant / National Insurance Company Limited is the second respondent in MCOP.No.1322 of 2002, on the file of the Motor Accident Claims Tribunal, Principal District Court, Krishnagiri. The claimants filed the claim petition under Section 163(A) of the Motor Vehicles Act, 1988 seeking compensation of Rs.3,25,000/- for the death of one Palani, husband of the first claimant, father of the claimants 2 to 4 in a road accident on 07.10.2001.

2. The case of the claimants in nutshell is as follows:

On 07.10.2001, the deceased Palani was walking along Salem - Harur Highways Road near Manjavadi Kanavai and at about 01.30 p.m, a speeding Jeep bearing Registration No. TN 23 1 3739 hit him, as a result whereof, he sustained fatal

injuries and died on the spot.

3. According to the claimants, the rash and negligent driving of the driver of the Jeep belonging to the fifth respondent was the cause of the accident and that since the said Jeep was insured with the present appellant / National Insurance Company Limited, the owner and the insurer of the Jeep are jointly and severally liable to pay compensation.

4. The fifth respondent / owner of the Jeep remained absent before the Tribunal and therefore, he was set ex-parte. The present appellant / National Insurance Company Limited contested the claim petition on all the grounds available to the insured. The learned Principal District Judge / Motor Accident Claims Tribunal, Krishnagiri after analysing the evidence on record, awarded a compensation of Rs.2,00,000/- together with interest at the rate of 9% per annum to the claimants. Questioning their liability to pay compensation to the claimants, the National Insurance Company Limited has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Mr.N.Vijayaraghavan, learned counsel appearing for the appellant contended that since the Jeep bearing Registration No. TN 23 T 3759 was not involved in the accident, the Tribunal was wrong in fastening liability on the part of the Insurance Company. He also drew the attention of this Court to a copy of the First Information Report (Ex.P1) and contended that Registration Number of the offending vehicle was not mentioned in the First Information Report (Ex.P1) and was also shown as a hit and run case.

6. No appearance on behalf of the respondents.

7. A perusal of a copy of the First Information Report (Ex.P1) shows that the Village Administrative Officer, Achankuttapatti village, Salem District lodged a complaint with the Sub Inspector of Police, Veeranam Police Station stating that an unidentified vehicle hit the deceased. However, the Sub Inspector of Police, Veeranam Police Station after full investigation, laid a final report before the learned Judicial Magistrate No.IV, Salem in C.C.No.210 of 2002 against the driver of the Jeep bearing Registration No. TN 23 T 3759. The driver of the Jeep was also pleaded guilty of the offence and paid a fine of Rs.4,000/- as evidenced by a copy of the judgment (Ex.A12) of the learned Judicial Magistrate No.IV, Salem. No contra evidence was adduced on the side of the present appellant to substantiate their contention that the vehicle insured with them was not involved in the accident. It is also pertinent to point out that the Insurance Company had sent a communication to CBCID, after 4½ of years of the accident and till date they are not able to file any report with regard to the status of CBCID enquiry. The Tribunal has analysed all these aspects in extenso and had

come to the conclusion that the rash and negligent driving of the driver of the Jeep was the cause of accident. In the facts and circumstances of the present case, the orders passed by the Tribunal are perfectly in order and I do not see any reason to interfere with the same.

8. As far as the quantum of compensation is concerned, no arguments were advanced by the learned counsel appearing for the appellant and no cross objection or appeal was filed by the claimants. A perusal of the award also shows that it is not on the higher side and in the facts and circumstances, the appeal fails and is dismissed.

9. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs.

(ii) The order passed by the Tribunal is upheld.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

mtl

To

The Motor Accident Claims Tribunal,
The Principal District Judge,
Krishnagiri.

+1cc to Mr.W.Vijayraghavan, Advocate, S.R.No. 94241

+1cc to Mr.P.Mani, Advocate, S.R.No. 93852

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RSV(CO)
GN(26/08/2020)

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