

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CMA.NO.759 OF 2009

AND

MP.NO.1 OF 2009

1. The State of Tamil Nadu

Rep. by its District Collector,
Chengalpattu District,
Kancheepuram.

2. The General Director of Police Dept.,
Chennai.

...Appellants/Respondents 1 & 2

..Vs..

Kulothungan

... Respondent/Claimant

PRAYER:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgement dated 27.02.2006 passed in MCOP.No.348 of 1999 on the file of the Motor Accident Claims Tribunal/Subordinate Court, Tirupattur, Vellore District.

For Appellants : Mr.S.Jaganathan,
Government Advocate (CS)

For Respondent : Mr.V.Parivallal

J U D G M E N T

The appellants are the respondents in MCOP.No.348 of 1999 on the file of the Motor Accident Claims Tribunal/Subordinate Court, Tirupattur, Vellore District. The respondent/claimant filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.3,00,000/- for the injuries sustained by him in a road accident that took place on 30.05.1998.

2. The case of the claimant is that on 30.05.1998, at about 01.30 pm, when he was riding his motorcycle bearing Registration No.TN 07 Z 6515 near Adambakkam Police Station, a speeding jeep bearing Registration No. TDH 2264 belonging to the appellants, hit the motorcycle, as a result of which, the claimant fell down from the motorcycle and sustained injuries all over his body. According to the claimant, the rash and negligent driving of the driver of the jeep bearing Registration No. TDH 2264 was the cause of the accident and that since the said jeep belongs to the appellants, they are jointly and severally liable to pay compensation to him.

3. The learned Motor Accident Claims Tribunal / Subordinate Judge, Tirupattur, Vellore District while awarding a compensation of Rs.1,32,000/- together with interest at the rate of 7.5% per annum, also held that the driver of the jeep bearing Registration No. TDH 2264 belonging to the appellants is responsible for the accident and directed the second appellant to pay the compensation to the claimant. Aggrieved over the orders passed by the Tribunal, the appellants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Mr.S.Jaganathan, learned Government Advocate (CS) appearing for the appellants contended that though the Police after full fledged investigation has filed a referred charge sheet before the learned Judicial Magistrate No.2, Poonamallee, the Tribunal fixed the responsibility on the driver of the jeep bearing Registration No. TDH 2264 and directed the appellants to pay the compensation to the claimant. According to him, the negligence fixed by the Tribunal on the driver of the jeep bearing Registration No. TDH 2264 is erroneous.

5. Per contra, Mr.V.Parivallal, learned counsel appearing for the respondent / claimant contended that the Tribunal after analysing the oral and documentary evidence on record, had clearly held that the driver of the jeep was responsible for the accident and that no notice was served on the claimant while filing a referred charge sheet before the learned Judicial Magistrate No.2, Poonamallee and therefore, the orders passed by the Tribunal directing the appellants to pay the compensation to the claimant is perfectly in order.

6. In the instant case, the driver of the jeep was examined as RW1 on the side of the appellants. He had deposed that on seeing a motorcycle coming on the opposite direction stopped his vehicle on the left hand side of the road and that however, the footrest of the motorcycle hit the front side bumper of the jeep and the motorcyclist fell down on road.

7. A copy of the First Information Report (Ex.R1) shows that the driver of the jeep was rash and negligent in driving his vehicle. The Inspector of Police, C3 Adambakkam Police Station filed a referred charge sheet before the learned Judicial Magistrate No.2, Poonamallee treating the case as a mistake of fact. A copy of the referred charge sheet dated 15.02.1998, is marked as Ex.R2. The appellants did not file the rough sketch and other relevant records before the Tribunal to show that only the rider of the motorcycle was responsible for the accident. Moreover, there is nothing to show in Ex.R2 that a notice was served on the complainant / claimant before filing a referred charge sheet. In fact, the Tribunal had dealt with this aspect in extenso and had clearly held that the driver of the jeep was responsible for the accident. It is also pertinent to point out that the jeep bearing Registration No. TDH 2264 was used by the Police officials and they have filed the referred charge sheet even without issuing any notice to the claimant. Even before this Court, a copy of the notice served on the complainant / claimant was not adduced by them. In the facts and circumstances of the present case, I hold that the driver of the jeep was rash and negligent in driving his vehicle.

8. A perusal of the discharge summary (Ex.P1) shows that the claimant has sustained fracture of both bones middle and lower 1/3rd junction and the Tribunal had considered all the aspects of the case and had awarded a sum of Rs.1,32,000/- together with interest at the rate of 7.5% per annum to the claimant. In fact, the learned counsel appearing for the appellants did not advance any arguments with regard to quantum of compensation. In the facts and circumstances of the present case, the quantum of compensation awarded by the Tribunal is upheld.

9. Though the accident took place in the year 1998, the appellants have not deposited even a single pie till date and therefore, they are directed to deposit the entire compensation within a period of two weeks from the date of receipt of a copy of this order.

10. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

(ii) The orders passed by the Tribunal is upheld.'

(iii) The second appellant is directed to deposit the entire compensation awarded by the Tribunal i.e., Rs.1,32,000/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.348 of 1999 on the file of the Motor Accident Claims

Tribunal/Subordinate Court, Tirupattur, Vellore District within a period of two weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the respondent/claimant is at liberty to withdraw the same after following due process of law.

Sd/-
Assistant Registrar(CO-MDU)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
The Subordinate Court,
Tirupattur, Vellore District.
2. The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to Mr.V.Parivallal, Advocate, S.R.No.80987
+2cc to the Special Government Pleader, S.R.No.83160

BP (CO)
CS/22/10/2020

CMA.No.759 of 2009

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