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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :01.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA No.2677 of 2011

and

MP.No.1 of 2011

1.P.Murugesan

2.The Medical Officer,  
Government Hospital,  
Pollachi.

3.The District Collector,  
Officer at Collectorate Building,  
Collector Office Campus,  
Coimbatore District.

... Appellants/Respondents 1 to 3

Versus

V.Thilagavathi

... Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the Judgment and Decree dated 15.09.2010 passed by the Motor Accidents Claims Tribunal (Subordinate Judge) Pollachi in MCOP.No.30 of 2006.

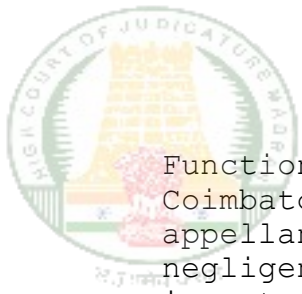
For Appellants : Mr.A.Dev Narendaran  
Government Advocate (C.S)

For Respondent : Mr.Ma.P.Thangavel

JUDGMENT

This appeal is filed by the Driver of the Ambulance, which met with the accident in which the husband of the claimant/respondent died. The claimant also impleaded the District Collector, Coimbatore as one of the respondents in the claim petition.

2.The case of the respondent is that on 11.02.2006 at about 10.00 pm, the deceased Veeramuthu and his wife (claimant herein) along with others in the village were undertaking a pilgrimage trip to Palani Murugan Temple on the eve of Thai Poosam



Function. They started proceeding by walk in the Pollachi to Coimbatore road. At about 2.15 am in the early morning, the appellant herein was driving the Ambulance van in a rash and negligent manner and dashed the deceased from behind. In the impact, the deceased sustained grievous injuries. Immediately, he was admitted in Coimbatore medical college hospital, where, in spite of treatment given by the doctor, he died in the said hospital on 15.02.2006. Due to the sudden death of the deceased, the claimant/respondent herein lost her beloved husband, who is the only bread winner of his family. Therefore, she filed the claim petition before the Tribunal and claiming a sum of Rs.33,55,000/- as compensation.

3.The claim petition was resisted by the appellant, who is the Driver of the Ambulance Van, by specifically contending that the Ambulance Van was stationary and that the deceased hit himself in the van on his own and thereby it was the deceased, who contributed to his death. Therefore, the appellant prayed for dismissal of the claim petition.

4.Before the Tribunal, on the side of the claimant, the claimant examined herself as PW.1, two eye witness were examined as PW.2 & PW.3 and six documents were marked as Ex.P1 to P6. On the side of the respondents, the appellant herein examined himself as RW.1 and Ex.R1/Accident Register was marked.

5.Based upon the oral and documentary evidence, particularly the eye witness of PW.3, Ex.P1/FIR, Ex.P4/charge sheet, the Tribunal has come to the conclusion that the accident had occurred only due to rash and negligent driving of the driver of the second respondent's Ambulance which was driven by none other the appellant herein.

6.Heard the counsel appearing for the respective parties and perused the materials available on record. On the point of quantum of compensation of awarded by the Tribunal.

7.After perusing the evidence of PW1, PW2, PW3 and also Ex.P1/FIR, it appears that the appellant had driven the Ambulance in a rash and negligent manner and hit the deceased Veeramuthu, who was proceeding by walk along with his wife and relatives to Palani Murugan Temple and hit the deceased from behind. The manner in which the accident had occurred has been spoken to by PW2 which duly support the contents in Ex.P1/FIR and the charge sheet/Ex.P4. Therefore, this Court is of the view that the finding rendered by the Tribunal with regard to the manner in which the accident had occurred due to rash and negligent driving of the driver of the second respondent's Ambulance is hereby confirmed.



8.As per Ex.P3/ Postmortem certificate, the Tribunal has taken the age of the deceased as 35 at that time of accident. Accordingly, multiplier 16 was adopted. Even though the claimant, who is the widow, has claimed that the deceased earning Rs.7,000/- per month, in the absence of any documentary evidence, the Tribunal has taken notional income. The Tribunal also taken into consideration the date of the accident and arrived at Rs.4,000/- as monthly income of the deceased. After giving 1/3rd deduction, the Tribunal arrived at Rs.2,666/- per month and accordingly, a sum of Rs.5,12,000/- (Rs.2666 x 12 x 16) was awarded towards loss of income.

9.On perusal of the award passed by the Tribunal, with respect to the amount awarded under the non-conventional heads, this Court is of the view that they appears to be reasonable and it does not warrant any interference by this Court.

10.It is represented by the appellants counsel that they have already deposited the entire award amount before the Tribunal and the same is recorded.

11.In the result, the Civil Miscellaneous Appeal filed by the appellants herein is dismissed by confirming the Judgement and Decree dated 15.09.2010 passed by the Motor Accidents Claims Tribunal (Subordinate Judge) Pollachi. The appellants one to three are directed to deposit the amount as determined by the Tribunal together with interest 7.5%, after adjusting amount, if any, already deposited within a period of eight weeks from the date of copy of this Judgment. The claimant/respondent is entitled to withdraw the same with accrued interest, less the amount if any, already withdrawn. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

klt  
To

1. The Subordinate Judge,  
The Motor Accidents Claims Tribunal,  
Pollachi.



2. The Section Officer,  
V.R. Section,  
High Court, Madras - 104.

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+1cc to the Government Pleader Sr.19408  
+1cc to M/s.Ma.P.Thangavel, Advocate Sr.19634

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