

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.821 of 2012

and

M.P.No. 1 of 2012

M/s. ICICI Lombard Motor Insurance Company Ltd.,
1st Floor, Omalar Main Road,
Near New Bus Stand
Salem - 636 009.

... Appellant / 2nd Respondent

Vs

1.Nagaraj

2.Gowramma

.. Respondent 1 and 2 /
Petitioner 1 and 2

3.Arulmani

... 3rd Respondent /
1st Respondent

(3rd Respondent set as exparte in Lower Court)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against Judgment and decree dated 18.07.2011 made in M.C.O.P.No.159 of 2009 on the file of the Motor Accident Claims Tribunal (Additional District Judge) (Fast Track Court) at Dharmapuri.

For Appellant : Mrs.R.Sreevidhya

For Respondents : Not ready in Notice (for R1&R2)

: R3- Exparte

JUDGMENT

The Insurance Company is the appellant herein. Challenging the award dated 18.07.2011 passed in M.C.O.P.No.159 of 2009 on the file of the Motor Accidents Claims Tribunal, (Additional District Judge) (Fast Track Court at Dharmapuri, the appellant has preferred this appeal on the ground of rash and negligent driving and also the quantum.

2. The brief facts of the case are as follows:

(i) On 12.12.2008, at about 6.00 am, petitioners who were doing duck business, travelled in a TATA Mini Van bearing regn.No.TN-29-AC-4242, along with their son one Nanjundan, aged 9 years, driven by the 3rd respondent, loaded with ducks from Thirukovilur to Tiruvannamalai. While so, the driver of the Mini Van who drove the vehicle in a rash and negligent manner, applied sudden brake on seeing a cyclist crossing the road. Due to the sudden brake, the said Van got capsized, as a result of which, the said Nanjundan who was travelling in the said van sustained fatal injuries and died on the spot. Hence, the claimants, being the parents of the deceased made a claim petition in M.C.O.P.No.159 of 2009 before the Tribunal, claiming a sum of Rs.7,27,000/-, which was restricted to a sum of Rs.3,00,000/- as compensation.

(ii) Before the Tribunal, on behalf of the deceased, his father was examined as PW.1, PW.2 & PW.3 besides that, two witnesses viz., PW.4, PW.5 were also examined and eight documents Ex.P1 to P8 were also marked. On the respondents side, one Balamurugan, Officer of the Insurance Company was examined as RW.1 and two documents viz., Ex.R1 & R2 were marked.

3. Based upon the oral and documentary evidence and also taking note of fact of the injured persons in connection with the claim petitions before the Tribunal, Ex.R1- Registration Certificate and Ex.R2- Insurance Policy Certificate of TN-28-AC-4242, TATA Mini Van, coupled with the Ex.P1-First Information Report, it is seen that the accident had occurred due to the rash and negligent driving of the driver of the vehicle owned by the 3rd respondent and insured by the appellant Insurance company. Hence, the finding of the Tribunal that the accident taken place due to rash and negligent driving by the driver, the 3rd respondent herein is hereby confirmed.

4. On the point of quantum, the learned counsel appearing for the appellant/ Insurance company would contend that a sum of Rs.2,39,000/-was awarded for the death of the boy, who was aged about 9 years at that time of accident. Considering the facts of the case, the quantum of compensation awarded by the tribunal appears to be a reasonable one. Hence, this Court do not want to interfere with the award passed by the Tribunal, hence the same is hereby confirmed.

5. Accordingly, the Civil Miscellaneous Appeal is dismissed as devoid of merits. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

ebsi/klt

To

1. The Motor Accident Claims Tribunal,
Additional District Judge,
Fast Track Court,
Dharmapuri.

2. The Record Clerk,
VR Section,
High Court, Madras.

+1 cc to Mrs.R.Sreevidhya, Advocate, S.R.No.19541

C.M.A.No.821 of 2012
and
M.P.No. 1 of 2012

BS (CO)
SSM(17/07/2019)



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