



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2019

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A(MD)No.1019 of 2007

National Insurance Co. Ltd.,
Pudukkottai Branch,
No.4132 East Main Street,
Pudukkottai.

... Appellant / 2nd Respondent

Vs.

1.K.Balakrishnan

2.B.Rajalakshmi

3.Minor Sathya Jothi
D/o.B.Raja @ Jeyakumar
(Rep. by her grand father and next
friend K.Balakrishnan)

... Respondents 1 to 3 /
Petitioners 1 to 3

4.N.Natarajan

... 4th respondent / 1st respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the fair and decretal order dated 06.10.2004 made in M.C.O.P.No.3098 of 2002 on the file of the Motor Accidents Claims Tribunal, (Principal District Judge), Trichirappalli.

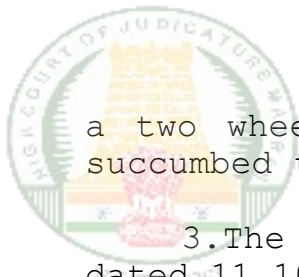
For Appellant : Mr.S.Srinivasaraghavan

For Respondents : No Appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company against the award, dated 06.10.2004 made in M.C.O.P.No.3098 of 2002 by the learned Principal District Judge, Trichirappalli.

2.It is a case of fatal accident took place on 11.09.2002 at about 12.30 p.m, at Trichy - Salem main Road, in which, the driver of the passenger Carrier van, bearing Registration No.TN-45-C-6955, which belongs to the first respondent and insured with the appellant-Insurance Company, came from opposite direction in a rash and negligent manner and dashed against the deceased, who was riding



a two wheeler bearing Registration No.TN-45-H-9032 and thereby he succumbed to the injuries.

3.The claimants filed an application in M.C.O.P.No.3098 of 2002 dated 11.10.2002 on the file of the Motor Accidents Claims Tribunal, (Principal District Judge), Trichirappalli, seeking compensation.

4.Before the Tribunal, on the side of the claimants two witnesses were examined as P.Ws.1 and 2 and nine documents were marked as Ex.P.1 to Ex.P.9. On the side of the respondents, no oral and documentary evidence was marked.

5.The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel for the appellant and claimants and also on appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the driver of the van, which is insured with the appellant/Insurance Company and directed the appellant/Insurance Company to pay a sum of Rs.7,30,000/-, along with interest at the rate of Rs.9%, as compensation.

6. Against which, the appellant/Insurance Company has filed this present appeal mainly questioning the liability and also quantum.

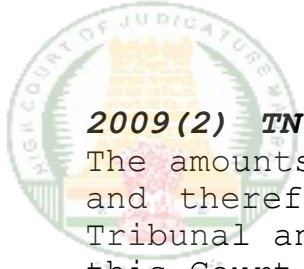
7. The learned counsel appearing for the appellant/Insurance Company contended that the deceased, who drove the two wheeler was not possessed of a valid driving licence on the date of accident and that the accident had occurred purely due to the rash and negligent driving of the deceased and hence, the Tribunal ought not to have fixed the entire liability on the driver of the van. Therefore, he would submit that the Tribunal has erroneously and excessively awarded the compensation.

8. Per contra, the learned counsel for the respondents 1 to 3/claimants contended that the Tribunal awarded a just and reasonable compensation and the same does not require interference and hence, this appeal is to be dismissed.

9. Heard the learned counsel appearing on both sides and perused the materials available on record.

10. As far as liability is concerned, on the basis of evidence of P.Ws.1 and 2 and Exs.P1 to P9 only, the Tribunal has arrived at the conclusion that the accident occurred due to rash and negligent driving of the driver of the van and has rightly fixed the liability on the driver of the appellant and hence, the same does not require any interference.

11. As far as quantum of compensation is concerned, the Tribunal has fixed the monthly income at Rs.5,000/- and as per the judgment in **Sarla Verma v. Delhi Transport Corporation**, reported in



2009(2) TN MAC 1 (SC), the Tribunal fixed the correct multiplier. The amounts awarded under all the heads are also just and reasonable and therefore, there is no infirmity in the award passed by the Tribunal and the same does not require interference at the hands of this Court.

12. In the result, this Civil Miscellaneous Appeal is dismissed and the award made in M.C.O.P.No.3098 of 2002, dated 16.10.2004 on the file of the Motor Accidents Claims Tribunal, (Principal District Judge), Trichirappalli, is hereby confirmed. The appellant/Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of six weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the respondents 1 to 3/claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, with proportionate interests and costs without filing formal permission petition. No Costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To,

1.The Motor Accidents Claims Tribunal,
Principal District Judge, Trichirappalli.

2.The Record Keeper, (2 copies)
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.S.SRINIVASA RAGHAVAN, Advocate (SR-96898[F] dated 08/11/2019)

C.M.A(MD)No. 1019 of 2007
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VB(30.12.2019) 3P 5C