



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.06.2019

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CMA(MD)No.783 of 2018

and

CMP(MD)No.8794 of 2018

The Commissioner of Police,
Trichy City,
Subramaniyapuram,
Trichy-4.

... Appellant/Respondent

vs.

1)A.Mohan
2)M.Banumathi
3)M.Krishnaveni
4)M.Saravana Kumar

... Respondents/Claimants

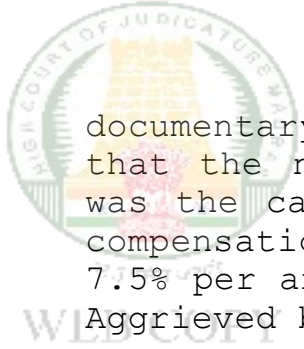
Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in MCOP.No.1190 of 2015 dated 11.09.2017 on the file of the Motor Accidents Claims Tribunal/Special District Judge, Tiruchirappalli.

For Appellant : Mr.J.Gunaseelan Muthiah
Additional Government Pleader
For Respondents : Mr.K.P.Narayana Kumar

JUDGMENT

This appeal is filed against the judgment and decree made in MCOP.No.1190 of 2015 dated 11.09.2017 on the file of the Motor Accidents Claims Tribunal/Special District Judge, Tiruchirappalli.

2.The facts of the case are that on 21.04.2015 about 01.10 a.m., while the son of the respondents 1 and 2 and brother of respondents 3 and 4 namely, Vinothkumar was standing on the pedestrian platform, the appellant's police patrol van bearing Registration No.TN 45 G 0709 driven by its driver in a rash and negligent manner dashed against the deceased while it was reversing, in which, the said Vinothkumar sustained fatal injuries and he died on the way to hospital. The respondents herein/legal heirs filed a claim petition in MCOP.No.1190 of 2015 on the file of the Motor Accidents Claims Tribunal/Special District Judge, Tiruchirappalli, claiming compensation of Rs.50,00,000/-. The appellant resisted the claim. Considering the oral and



documentary evidence adduced on either side, the Tribunal held that the negligent act of the driver of the appellant's vehicle was the cause for the accident and directed the appellant to pay compensation of Rs.16,44,000/- to the respondents/claimants with 7.5% per annum from the date of petition till the date of deposit. Aggrieved by the said award, the appellant has filed this appeal.

3. Though the appellant has filed this appeal questioning negligence and quantum, during the hearing, learned counsel for the appellant has restricted his relief only to negligence.

4. Learned counsel for the appellant would contend that the driver of the appellant's vehicle involved in the accident was acquitted by the criminal court and therefore, the finding of the Tribunal fixing negligence on the driver of the appellant and the consequential liability fixed on the appellant to pay compensation to the claimants is liable to be set aside.

5. Learned counsel for the respondents/claimants would submit that the Tribunal considering oral and documentary evidence on either side, has rightly fixed the negligence on the driver of the appellant's vehicle which does not require interference by this Court.

6. Heard the learned counsel for the appellant as well as the respondents.

7. Perusal of record shows that the manner of accident is proved by the claimants through PW1, PW2-eye witness and Ex.P1-FIR registered against the driver of the appellant's vehicle. Though RW1-Sub Inspector of Police was examined on the side of the appellant, he was not the person who witnessed the accident and RW1 himself admitted in his cross examination that a criminal case was lodged against the appellant's driver and disciplinary proceedings were also initiated against him.

8. Though the appellant contended that the driver of the appellant's vehicle was acquitted by the criminal court and therefore, he was not responsible for the accident, perusal of the criminal court judgment produced before this Court shows that his acquittal was made only on benefit of doubt. Further, it is well settled that in claims cases, the test to prove negligence is only preponderance of probability. Testing the finding of the Tribunal on the abovesaid principles, this Court does not find any infirmity to interfere with the same.

9. The appellant is directed to deposit the entire award amount with interest and costs as awarded by the Tribunal, less the amount already deposited, if any, to the credit of the claim petition within a period of six weeks from the date of receipt of



a copy of this judgment. On such deposit, the respondents/claimants are permitted to withdraw their respective shares with accrued interest without filing formal permission petition before the Tribunal.

With the above direction, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To

1) The Special District Judge,
Motor Accidents Claims Tribunal,
Tiruchirappalli.

Copy to
The Section Officer, -2 copies
V.R. Section
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.SPL GP (SR-71763[F] dated 27/06/2019)

+1 CC to M/s.K.P.NARAYANA KUMAR, Advocate (SR-71886[F] dated 27/06/2019)

bala

CMA (MD) No. 783 of 2018
26.06.2019

_KM/ (19.07.2019) 3P 6C