



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1712 of 2013

(Through Video Conferencing)

1.Nagammal

2.Dhanalakshmi

3.Chandra

4.Kulasekaran

... Appellants/Petitioners

Vs.

Ayyanar

... Respondent/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the award passed by the Tribunal in M.C.O.P.No.125 of 2008 dated 23.12.2009 on the file of the M.A.C.T. Principal District Court, Villupuram.

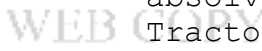
For Appellants : Mr.S.Udhayakumar

For Respondent : Mr.D.Pradeep Kumar

J U D G M E N T

The claimants are the appellants in this Civil Miscellaneous Appeal. They are aggrieved by the impugned Judgment and Decree dated 23.12.2009 passed by the Motor Accidents Claims Tribunal (Principal District Court), Villupuram District, Villupuram in M.C.O.P.No.125 of 2008.

2. By the impugned Judgment and Decree, the Tribunal has disallowed the claim petition filed by the appellants. The impugned Judgment and Decree is sought to be assailed by the appellants on the ground that the Tribunal erred in disallowing the claim primarily on the ground that the appellants/claimants who are the sisters and brother of the deceased Ramasamy were aged about 45, 43, 40 & 35 years respectively at the time of filing of the claim petition and were therefore not the

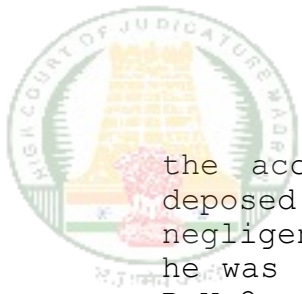


3. It is submitted that the Insurance Company has been absolved of the liability by the Tribunal on the ground that the Tractor belonging to the respondent was neither insured nor involved in the accident. It is submitted that the respondent owner of the Tractor involved in the accident was liable to pay the compensation under Section 140 of the Motor Vehicles Act, 1988. The learned counsel for the appellants prayed that at least Rs.50,000/- be ordered under Section 140 of the Motor Vehicles Act, 1988 for "no fault liability".

5. I have considered the arguments advanced by the learned counsel for the appellants and the learned counsel for the respondent. I have perused the evidence on record and the impugned Judgment and Decree.

7. Though Ex.A1 FIR was lodged, there was categorical findings given by the Tribunal that the FIR was closed by the police as no case was made out against the driver of the Tractor. That apart, the 4th appellant who filed the FIR was not examined as a witness on behalf of the appellants/claimants. Instead, the 1st appellant who is the sister of the deceased was examined. She is not an eye witness to the accident.

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the accident. R.W.1 who witnessed the accident on 21.08.2005 deposed that the deceased drove the motorcycle in a rash and negligent manner and hit against a tamarind tree and thereafter, he was admitted in Government Hospital, Villupuram. Similarly, R.W.2 who was the driver of the Tractor and Trailer deposed that since there was no work on the said date, the Tractor was not under use. The other witnesses who were produced before the Tribunal by the appellants also during the cross examination admitted that they have not seen the accident.

9. Therefore, there is no question of fixing liability on the respondent. The question of fixing liability on the respondent under Section 140 of the Motor Vehicles Act, 1988 also does not arise as the factum of the accident involved of the Tractor and Trailer of the respondent is not proved. Therefore, they can not considered as dependents of the deceased. Therefore, no compensation under Section 140 of the Motor Vehicles Act, 1988 under "no fault liability" can be awarded to the appellants/claimants. That apart, the appellants were aged about 45, 43, 40 & 35 years respectively at the time of filing of the claim petition.

10. The findings of the Tribunal is thus liable to be confirmed. Therefore, this appeal is liable to be dismissed. Accordingly, this Civil Miscellaneous Appeal is liable to be dismissed. No cost.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal
Principal District Court, Villupuram.

C.M.A.No.1712 of 2013

RSV(CO)
CB(31/08/2021)