

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.02.2020

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1844 of 2013

and

M.P.No.1 of 2013

The Chairman,
Chennai Port Trust,
Rajaji Salai, Chennai - 1

...Appellants/Respondents

Vs

1.G.Kala @ Kalavathi
2.Pushpa @ Pushpalatha
3.Lokeshwari(minor represented by G.Kala @ kalavathi)
4.G. Ganesan(minor)
5.S.Rajeswari

... Respondents /Petitioner

PRAYER: This Civil Miscellaneous appeal is filed U/s 173 of Motor Vehicles Act to set aside the Decree and Judgment dated 26.04.2007 made in O.P.No.2175 of 2002 on the file of the Motor Accident Claim Tribunal, FTC-I, Chennai.

For appellant : Mr.M.R.Dharanichander

For respondents : Mr.K. Suryanarayanan

1 to 5

J U D G M E N T

This appeal has been filed against the Decree and Judgment dated 26.04.2007 made in O.P.No.2175 of 2002 on the file of the Motor Accident Claim Tribunal, FTC-I, Chennai.

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

On 02.04.1998 at about 21.00 hours when the deceased (Gopal) who was the driver of a container lorry, after parking the vehicle, he was walking towards "TLT-K2"operator from west to east in Chennai harbour, at that time another lorry came in the opposite direction without any sounding horn and dashed against Gopal. Due to the impact the said Gopal died in the spot itself. The accident occurred due to the rash and negligent driving of

the driver of the lorry. Therefore, the legal heirs of the deceased filed a claim petition before the claims tribunal in M.C.O.P.No.2175 of 2002 on the file of the Motor Accident Claims Tribunal, FTC-I, Chennai, seeking Rs.7,00,000/- as compensation.

3.The Tribunal Considering the materials available on record awarded a sum of Rs.6,79,000/- as compensation with interest at 7.5% p.a from the date of petition till the date of realization.

4.Challenging the award passed by the Tribunal, the Appellant/Port Trust has come forward with this appeal before this Court.

5.In order to prove the claim before the Tribunal, on the side of the appellant two witnesses were examined viz., P.W.1 and P.W.2 and 12 documents viz., Ex.P1 to Ex.P12 were marked. On the side of the respondent no witnesses was examined, but two documents were adduced.

6. The learned counsel for the appellant/port Trust submitted that the fatal accident was taken place in a restricted area and the Trailer also belongs to M/s Indev Container Service. Hence, they are liable to pay compensation and prays to allow this appeal.

7. The learned counsel for the respondents/claimants submitted that the Tribunal has analysed each and every aspect and fixed the negligence on the part of the driver of the lorry and awarded compensation. Hence, the finding of the Tribunal does not require interference by this Court.

8. On a perusal of the order passed the Tribunal, the negligence aspect was discussed elaborately. Whether the accident was occurred due to the rash and negligent act of the deceased or the negligence of the driver of the appellant's vehicle ? P.W.2/Ravi chandran deposed in his evidence that a lorry T.N.T.K.-2 came in the reverse direction and hit against the deceased hence, the accident has taken place. Ex.P.1 supports the case of the claimants rather than the appellant. Therefore, based on Ex.P1/F.I.R and the evidence of P.W.2/Ravi chandran, the Tribunal arrived at a conclusion that the accident has occurred due to the rash and negligent driving of the rider of the first respondent's vehicle. Hence, the finding of the Tribunal is perfectly valid in the eye of law and the same is confirmed as such.

9. With regard to quantum, in the claim petition it has been stated that the deceased was earning Rs.6,000/- per month by working as a driver in M/s Indev Container Services, hence the Tribunal has taken Rs.4,000/- as monthly income and arrived

Rs.48,000/- (Rs.4,000 x 12) as annual income and taking note of the age "14" multiplier was applied and quantified Rs.6,72,000/- (Rs.48,000 x 14) as compensation towards loss of income. Apart from this a sum of Rs.2,000/- was awarded towards funeral expenses and awarded Rs.5,000/- towards the head consortium as the 1st respondent has lost her companion. Thus, the total compensation is quantified to Rs.6,79,000/-

10.This Court is of the view that the findings of the Tribunal with regard to quantum are based on weightage of evidence, probabilities of case and settled principles of law and hence the same are confirmed.

11.In the result, this Civil Miscellaneous Appeal is dismissed. The Appellant/Port Trust shall deposit the compensation amount along with interests and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of eight weeks, from the date of receipt of a copy of this judgment. On such deposit being made the Respondents/claimants shall withdraw the same and disburse the same as per the ration of apportionment made by the Tribunal, on making proper application before the Tribunal. The amount apportioned to the minor claimant/fourth respondent shall be deposited in any of the nationalized banks, till he attain majority and the first respondent is entitled to withdraw the accrued interest once in three months. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1 The Motor Accident Claim Tribunal, FTC-I, Chennai.

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

+1 cc to M/s.K.Suryanarayanan, Advocate Sr.No. 15578

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and

M.P.No.1 of 2013

AD(CO)

RMP(02/03/2021)