



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved : 04.11.2020
Pronounced on : 09.11.2020

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CORAM:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

C.M.A.No.2012 of 2015

Kennady @ Raja ..2nd Respondent/Appellant

/Versus/

1. Vijaya
2. Gobi
3. Kalaiyarasi
4. Sivan ...Petitioner 1 to 4/Respondents 1 to 4
5. Srinivasa Reddy ...1st Respondent/5th Respondent
6. Silambarasan ...3rd Respondent/6th Respondent

Prayer: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and award dated 20.02.2015 passed in M.C.O.P.No.662 of 2008 on the file of the Motor Accident Claims Tribunal (Additional District Court), Krishnagiri.

For Appellant : Mr. P. Mani

For Respondents: Mr. K. Prasanna for
1 to 4 M/s Mukund R. Pandiyan
R5, R6-No appearance

J U D G M E N T

(The case has been heard through Video Conferencing)

The appellant herein is the second respondent in the Motor Accident Claim Petition No.662 of 2008 on the file of the Motor Accident Claims Tribunal, Additional District Court, Krishnagiri.

2. The grievance of the appellant is that, the Tribunal, without proper application of mind, had passed the award against the appellant holding him as the owner of the offending vehicle, in spite of specific plea raised by the appellant denying ownership and in the absence of any evidence to show that the appellant is the subsequent purchaser of the vehicle.



3. On 06/05/2006, one Subramani died in the motor accident, when a motor cycle viz., TVS Suzuki bearing Registration No.TN-29-Q-9968 dashed him at Kaveripattinam on Kaveripakkam to Palacode Road. Claim petition seeking compensation of Rs.10,00,00/- under Section 166 of the Motor Vehicles Act was filed by the wife and children of the deceased Subramani against one Srinivasa Reddy in whose name the RC book for the offending vehicle stood, Kennady @ Raja who alleged to have subsequently purchased the vehicle, but not got the name transfer in the RC book and one Silambarasan, who was the rider of the motorcycle and the son of the second respondent Kennady @ Raja (the appellant herein).

4.The claim petition was contested by the 2nd and 3rd respondents on the ground that the death of Subramani was not due to the injuries sustained in the accident. He sustained only simple injuries in the accident. He died on 28/05/2006 few weeks after the accident due to other ailments. The second respondent is not the owner of the vehicle and he did not purchase the vehicle from the first respondent. The accident occurred due to the negligence of Subramani, who tried to cross the road under intoxication. The 3rd respondent with all his best effort tried to stop the vehicle and almost stopped it. The deceased Subramani sustained only simple injury and recovered within 2 weeks and roaming in the village, However, he was affected by chickenguniya and died in the hospital on 28/05/2006.

5.The Tribunal on considering the evidence of PW-2, who is the witness to the accident, held that the accident occurred due to the carelessness and rash driving of the 3rd respondent in which the deceased Subramani sustained severe injury. The medical records correlates the cause of death to the accident injury. The second respondent as owner of the vehicle and the third respondent as the rider of the vehicle are jointly and severely liable to pay compensation of Rs.4,00,000/- to the claimants with interest at the rate of 7.5% from the date of petition till the date of realisation.

6.The ownership of the vehicle is tested in this appeal. Ex.P-9 is the copy of the RC book for the motor vehicle bearing Reg.No.TN-29-Q-9968. It stands in the name of the first respondent Srinivasa Reddy. He has not filed any counter or contested the claim. There is no evidence to prove that the vehicle was sold by him to the second respondent the appellant herein. No doubt, the rider of the offending vehicle is the son of the appellant. But, it does not give any presumptive inference that the appellant is the owner of the vehicle. When there is no evidence contrary to Ex.P9, the Tribunal ought to have exonerated the second respondent/appellant and should have



fixed the liability jointly and severely against the first respondent, who is the owner of the vehicle, as per the RC and the third respondent, who is the tort-feasor who caused the death of Subramani by his act of negligence and rashness.

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7. Therefore, the award of the tribunal is to be modified to the effect that the compensation of Rs.4,00,000/- is jointly and severely liable to be paid by the Srinivasa Reddy and Silambarasan who are the first and third respondents in the claim petition.

8. Accordingly, the Tribunal award as against this appellant is set aside. The respondents 1 to 4 herein/claimants in MCOP shall be entitled to recover the claim amount with interest, as per the Tribunal award from respondents 5 and 6 herein/ respondents 1 and 3 in MCOP.

9. In the result, this Civil Miscellaneous Appeal is disposed with partial modification of the Tribunal award as stated above. No order as to costs.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To:

The Motor Accident Claims Tribunal,
Additional District Court,
Krishnagiri.

C.M.A.No.2012 of 2015

RP (CO)
CB(17/08/2021)