

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2228 of 2012

and

MP.No.1 of 2012

The Branch Manager,
United India Insurance Co. Ltd.,
Having office at TKM Complex,
Katpadi Road, Vellore. Appellant/2nd Respondent

vs.

1.Ranjitham
2.Gandhimathi
3.Rajalakshmi 1 to 3 Respondent/Petitioner
4.A.Narayana 4th Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 11.07.2011 in M.C.O.P.No.658 of 2009 on the file of the Motor Accident Claims Tribunal, Principal District Court, Vellore.

For Appellant : Mr.S.Arunkumar

For Respondents : Mr.C.Prabakaran for R1 to R3
Mr.V.Jaganathan for R4

J U D G M E N T

The United India Insurance Company, the second respondent in MCOP.No.658 of 2009 on the file of the Motor Accident Claims Tribunal / Principal District Court, Vellore has filed the present appeal.

2. The respondents 1 to 3 / claimants filed the claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of Rs.20,00,000/- for the death of Shanmugam, husband of the first respondent, father of the second and third respondents in a road accident that took place on 05.09.2009.

3. The case of the respondents 1 to 3 / claimants is that on 05.09.2009, at about 07.30 hours, the deceased was

travelling along with his vegetables in a van bearing Registration No.AP 02 X 1845 on Chennai - Chittoor road. At that time, the driver of the van suddenly applied brake to avoid hitting another vehicle, that was proceeding ahead of the van, as a result of which, the van capsized which resulted in the accident. Due to the accident, the deceased Shanmugam sustained grievous injuries and died on the spot. Therefore, the respondents 1 to 3 / claimants filed the claim petition seeking compensation.

4. Before the Tribunal, on the side of the respondents 1 to 3 / claimants, PW1 and PW2 were examined and Exs.P1 to P8 were marked. On the side of the respondents therein, RW1 was examined and Ex.R1 was marked.

5. The fourth respondent herein remained absent before the Tribunal and therefore, he was set exparte. The United India Insurance Company contested the claim petition. The learned Principal District Judge / Motor Accident Claims Tribunal, Vellore after analysing the evidence on record, awarded a compensation of Rs.1,43,000/- together with interest at the rate of 7.5% per annum to the respondents 1 to 3 / claimants and directed the Insurance Company to pay the same.

6. Challenging the said award dated 11.07.2011 made in M.C.O.P.No.658 of 2009, the appellant / Insurance Company has come out with the present appeal.

7. The learned counsel appearing for the appellant / Insurance Company contended that the Tribunal failed to note that the fourth respondent has violated the policy conditions by giving permission to carry passenger in the goods vehicle. He further submitted that only for the purpose of claiming compensation from the appellant / Insurance Company, it has been alleged that the deceased had travelled as owner accompanying the goods and hence the appellant is not liable to pay compensation to the respondents 1 to 3 / claimants. He therefore prayed for allowing the appeal.

8. Per contra, the learned counsel appearing for the respondents 1 to 3 / claimants contended that the Tribunal, after considering the oral and documentary evidences in a proper perspective, has fixed the liability on the appellant / Insurance Company and prayed for dismissal of the appeal.

9. Heard the learned counsel appearing for the appellant / Insurance Company, the learned counsel appearing for the respondents and perused the materials on record, available before this Court.

10. In the instant case, eventhough the appellant / Insurance Company had contended that the deceased has not travelled as the owner of goods, they have not adduced any documentary evidence to prove the same.

Identity Card

(Ex.P7) issued by the Government shows that the deceased is an agriculturist. Gandhimathi (PW1), daughter of the deceased also deposed before the Tribunal that her father is an agriculturist. Therefore, it can be concluded that the deceased travelled in the van as the owner of the goods. It is contended by the appellant / Insurance Company that the driver of the van did not possess a valid driving licence on the date of the accident. However, the respondents 1 to 3 / claimants have adduced driving licence (Ex.P5) which shows that the driver of the van possessed valid driving licence on the date of the accident. Hence, in the absence of material evidence, this Court is not inclined to accept the contentions of the appellant / Insurance Company. The order passed by the learned Principal District Judge, Vellore in MCOP.No.658 of 2009 dated 11.07.2011 is confirmed.

11. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
Principal District Court,
Vellore.

2. The Section Officer, सत्यमेव जयते
VR Section,
High Court of Madras,
Chennai.

+1cc to Mr.S.Arunkumar, Advocate SR.No.7811

+1cc to Mr.C.Prabakaran, Advocate SR.No.7622

C.M.A.No.2228 of 2012
and
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BP (CO)
GMY (20/04/2021)