



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 30.07.2020

Pronounced on: 04.08.2020

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.Nos.252 & 253 of 2016
& C.M.P.Nos.2135 & 2136 of 2016
& C.M.P.Nos.7700 & 7701 of 2016

1. The Executive Engineer,
Public Works Department,
KRP Division (WRO), Chengam, Tiruvannamalai District.
2. Assistant Executive Engineer,
Public Works Department,
Electrical Sub Division,
Dharmapuri - 5, Dharmapuri District.
3. The Executive Engineer & General Superintendent
C/o. ENT Public Works Department, Chepauk, Chennai.
4. The District Collector,
Tiruvannamalai Collectrate, Venkikal, Tiruvannamalai.
(Impleaded as per I.A.No.326 of 2009, dated 26.06.2009)
5. The Executive Engineer,
Water Resource Organisation,
Public Works Department,
Special Project Division,
No.3, PWD Compound, Chepauk, Chennai.
(Implead as per I.A.No.7/2013 and
amended as per I.A.No.135 of 2013)
... Respondents 2 to 6/Appellants.
in C.M.A.Nos.252 & 253 of 2016

/versus/

1. Rani,
W/o.Thanakotti,
Palavaikal Kollai Village,
Thanagounden Pudur Madura,
Eraiur Post,
Chengam Taluk, Tiruvannamalai District.



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2. Thanakotti,
S/o.Kuppusami Goundar,
Palavaikal Kollai Village,
Thanagounden Pudur Madura,
Eraiyr Post,
Chengam Taluk, Tiruvannamalai District.

3. Sundari,
D/o.Thanakotti,
Rep. By her next friend Mother guardian 1st petitioner
Palavaikal Kollai Village,
Thanagounden Pudur Madura,
Eraiyr Post,
Chengam Taluk, Tiruvannamalai District.

4. Sridharan,
S/o.Karunaiappan,
Anaimeedu Dam, Belur, Salem.

...Respondents
in C.M.A.No.252 of 2016

1. Renugambal,
W/o.Subramani,
Padhur Maari Amman Koil,
Chengam Taluk, Tiruvannamalai District.

2. Subramani,
S/o.Palani Gounder.

3. Duraimurugan,
S/o.Subramani,
Padhur Maari Amman Koil,
Chengam Taluk, Tiruvannamalai District.

4. Sridharan,
S/o.Karunaiappan,
Anaimeedu Dam, Belur, Salem.

... Respondents
in C.M.A.No.253 of 2016

Prayer in C.M.A.No.252 of 2016: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 31.03.2016, passed by the Motor Accident Claims Tribunal, Chennai, (in the Court of Chief Judicial Magistrate) made in M.C.O.P.No.311 of 2013.

Prayer in C.M.A.No.253 of 2016: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 31.03.2016, passed by the Motor Accident Claims Tribunal, Chennai and Chief Judicial Magistrate, Tiruvannamalai made in M.C.O.P.No.312 of 2013.



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For Appellants : Mr.Y.T.Aravind Gosh, GA
in C.M.A.Nos.252 & 253 of 2016

For R1 to R3 : Mr.B.Jawahar,
in C.M.A.Nos.252 & 253 of 2016

For R4 : No appearance
in C.M.A.Nos.252 & 253 of 2016

COMMON JUDGMENT

(The case has been heard through video conference)

These two appeals are filed by the aggrieved respondents in the Motor Accident Claim Petitions filed by the dependants of the accident victims. The Tribunal has passed common order in the claim petitions M.C.O.P.Nos.311 of 2013 & 312 of 2013. Since, the ground raised in this Appeal is also common, common judgment is passed.

2. The brief facts of the case is that on 13.08.2005, at about 19.45 hours, Rajendran, aged 19 years was carrying Selvarasu, aged 22 in his bicycle at Tiruvannamalai to Chengam Main road, Ammapalayam Village, Chengam Taluk. Near Rajambal house at Thanagoundar Pudhur, the vehicle of Public Works Department hit against the cycle in which both Selvarasu and Rajendran died due to the injury sustained by them. Both were unmarried at the time of death. Their dependants filed claim petitions before the Tribunal.

3. In M.C.O.P.No.311 of 2013 filed by the parents and the brother of Selvarasu, it was contended that Selvarasu was earning Rs.4,500/- as mason. Due to the rash and negligent driving of the Jeep bearing Registration No.TN 07 G 1989, driven by the 1st respondent Mr.Sridhar and owned by the respondents 2 to 4, he succumbed to the injuries. Hence, compensation of Rs.5,00,000/- claimed.

4. In M.C.O.P.No.312 of 2013, the claim petition filed by the dependants of the deceased Rajendran aged about 19, similar plea was made by his parents and sisters.

5. Before the Tribunal, the Appellants herein denied the involvement of their vehicle in the accident and their liability to pay compensation. Pointing out the inconsistency in the First Information Report and the evidence regarding the vehicle involved in the accident, it was contended by the appellants that the identity of the vehicle which caused the accident not been established by the claimant. Therefore, the



Appellants are not liable to pay compensation. The contradiction in the description of the vehicle, make and Registration number was relied upon by the respondents to avoid the responsibility of compensating the loss caused to the death of two young boys aged 19 and 22.

6. Relying upon the Criminal Court judgment acquitting the driver of the vehicle Mr.Sridhar, it was contended before the Tribunal that the Criminal Court has acquitted the driver for want of proof regarding the identity of the vehicle therefore, they are not liable.

7. The Trial Court, after considering the submissions made by the respondents, relying upon the Motor Vehicle inspection report marked as Ex.P.2 and the FIR report marked as Ex.P.1, which indicates that the vehicle bearing registration No.TN 07 G 1989 was the offending vehicle. The said vehicle is owned by the Government and used by the respondent Nos.2 to 4. Hence, they are liable to compensate the loss. The Tribunal declined to accept the defence of the respondents regarding the involvement of their vehicle in the accident.

8. Regarding the acquittal of the driver, extending the benefit of doubt, the Tribunal has held that the finding of the Criminal Court will not exonerate the liability of the respondents.

9. Having held so, the Tribunal fixing the income of the deceased person at the rate of Rs.3,500/- per month, after deducting 50% towards the personal expenditure and applying multiplier 18, awarded Rs.3,64,000/- to the defendants in each of the claim petition.

10. In this appeal, the respondents 2 to 5 reargue the same defence canvassed before the Tribunal. The First Information Report was given by one of the victims, father. He was not the witness to the accident. He was not able to give the specific description of the vehicle and Registration Number. But the fact remains that two persons were dead in the road accident and based on the investigation carried on the complaint, the police has zeroed down the vehicle bearing Registration No.TN 07 G 1989.

11. The Learned Counsel for the appellants harping upon the discrepancy in the description of the vehicle by the witnesses would submit that, this throw down about the involvement of the vehicle. Court cannot lose the sight of the fact that, the rustic villagers may not be accurate in describing the make and model of a motor vehicle. In this case, after registration of the FIR, the police has taken all



endeavour to ascertain the offending vehicle and in their investigation, they have found that the van bearing Registration No. TN 07 G 1989 is the offending vehicle. This information has been gathered by the Police in the course of investigation and they have filed charge sheet against the driver of the vehicle. No doubt, the Criminal Court has exonerated the driver for want of evidence. Extension of benefit of doubt in the criminal case will not exonerate the tortious liability of the vehicle owner. Having found the driver of the vehicle bearing Registration No. TN 07 G 1989, rash and negligently caused the accident, the police has filed final report before the concern Magistrate against Mr. Sridhar for offences under Section 279 and 304 (A) of I.P.C. The motor vehicle inspection report marked as Ex.P.2 indicates that in the accident, the front wind glass of the vehicle was broken.

12. Mr. Ashok Kumar, (P.W.3) is the witness to the accident who has deposed that the Jeep bearing Registration No. TN 07 G 1989 came rash and negligently and hit the bicycle and stopped at a distance. On hearing the noise, he went to the spot and transported both Selvarasu and Rajendran to hospital. While Selvarasu died on the way to the Hospital, Rajendran died when he was taken to Vellore Headquarters Hospital for further treatment. Therefore, there can be no doubt about the vehicle involved in the accident and the ownership of the vehicle.

13. To prove that on the date of accident, the vehicle was not driven by Mr. Sridhar, or not plying on the road, the appellants ought to have at least produced the log book of the vehicle, which is normally maintained by any Government Department for the use of the vehicle. In this case, there is no such evidence to support the claim of the appellants. Therefore, the Tribunal has rightly rejected their defence and has awarded compensation which is fairly reasonable and requires no interference.

14. Hence, these Civil Miscellaneous Appeals are dismissed. With cost of Rs.10,000/- in each case, payable to the respondents. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-I)

//True Copy//

Sub Assistant Registrar

bsm/jbm



To,

1. The Motor Accident Claims Tribunal, Chennai.
2. The Chief Judicial Magistrate, Tiruvannamalai.
3. The Section Officer,
VR Section, Madras High Court.

+lcc to the Government Pleader, SR.26095, 26096

C.M.A.Nos.252 & 253 of 2016

AD(CO)
CB(12/08/2021)