

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2020

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.762 of 2017

1.Pavayee

2.Saroja

3.Sakthivel

4.Malathi

5.Ramalingam

... Appellants /Petitioners 2 to 6

Vs.

1.K.Selvi

2.M/s.United India Insurance Co. Ltd.

Branch office City Branch I

81 - C, WGC road

Tuticorin - 628 002.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 22.10.2002 made in M.C.O.P.No.99 of 1999 on the file of Motor Accidents Claims Tribunal, Sub Court, Mettur.

For Appellants : Mr.M.Tamil Thendral Arasu for
Mr.P.Mani

For R2 : Mr.J.Chandran

R1 : Unclaimed

J U D G M E N T

The Civil Miscellaneous Appeal is filed challenging the order of dismissal dated 22.10.2002 made in M.C.O.P.No.99 of 1999 on the file of Motor Accidents Claims Tribunal, Sub Court, Mettur.

2. One Silamban filed M.C.O.P.No.99 of 1999 on the file of Motor Accidents Claims Tribunal, Sub Court, Mettur, claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the accident that took place on 14.04.1998. Pending claim petition, the said Silamban died on 12.04.1999. The legal heirs of the deceased Silamban were impleaded as claimants 2 to 6/appellants herein as per the order dated 01.11.2001 made in I.A.No.616 of 2001.

3. The Tribunal considering the pleadings, oral and documentary evidence let in by the appellants, dismissed the claim petition holding that the deceased did not die due to the injuries sustained in the accident.

4. Against the order of dismissal dated 22.10.2002 made in M.C.O.P.No.99 of 1999, the appellants have come out the present appeal.

5. The learned counsel appearing for the appellants/claimants contended that the deceased Silamban died only due to the injuries sustained by him in the accident. The Tribunal erred in holding that the deceased did not die due to the injuries as the appellants failed to amend the claim petition. Even without amending the claim petition, the appellants can prove that the deceased Silamban died due to the injuries sustained by him in the accident. The Tribunal erred in dismissing the claim petition, prayed for allowing the appeal and granting compensation.

6. Per contra, the learned counsel appearing for the 2nd respondent/Insurance Company contended that the appellants have not let in any evidence to prove that the deceased Silamban died only due to the injuries sustained by him in the accident. The deceased Silamban died only after one year of the accident due to natural cause. The Tribunal has given valid reason for dismissing the claim petition and prayed for dismissal of the appeal.

7. Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the 2nd respondent and perused all the materials available on record.

8. From the materials available on record, it is seen that the accident has occurred on 14.04.1998 and the said Silamban died on 12.04.1999 after one year of the accident. Pending claim petition, the appellants were impleaded as the legal heirs of the deceased Silamban. According to the appellants, the deceased Silamban died only due to the injuries sustained by him in the accident. To substantiate their contention, they have marked

Ex.P8 and P10/discharge summaries. The Tribunal considering Ex.P8 and P10 and appreciating the said documents in proper perspective, held that those documents did not prove that the deceased Silamban died due to the injuries sustained by him in the accident. The Tribunal took note of the fact that in the discharge summaries, there is no mention about the grievous injuries, which would have caused the death of the deceased. The appellants have not examined any Doctor to prove that the deceased died due to the injuries. From the award of the Tribunal, it is seen that the Tribunal elaborately considering the documents and arguments advanced by the parties, held that the appellants have not proved the death of the deceased Silamban is due to the injuries sustained by him in the accident. The Tribunal has given valid reason to arrive at such a conclusion. There is no error in the said finding of the Tribunal warranting interference by this Court.

9.At the same time, the appellants are entitled to medical expenses, transportation and damage to clothes and articles. In the claim petition, the deceased Silamban claimed a sum of Rs.1,200/- towards damage to clothes & articles, a sum of Rs.5,000/- towards transportation and Rs.20,000/- towards medical expenses. The appellants have marked Exs.P7/medical bills, P11/trip sheets, P13/bus fare receipts and P14/receipts for miscellaneous expenses to prove the expenses incurred by them. Considering the documents and averments made in the claim petition, a lumpsum amount of Rs.50,000/- is awarded towards medical expenses, transportation and damage to clothes & articles. Thus, the appellants are entitled to the following compensation:

Description	Amount awarded by this Court (Rs)
Medical expenses, transportation and damage to clothes & articles	Rs.50,000/-

10.In the result, the Civil Miscellaneous Appeal is partly allowed. A sum of Rs.50,000/- is awarded as compensation together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit. The appellants are directed to pay necessary Court fee, if any on the compensation awarded by this Court. It is made clear that the appellant/claimant shall not be entitled for any interest for the delay period on the amount of Rs.50,000/- awarded by this Court as per the order of this Court dated 08.02.2017 in C.M.P.No.9199 of 2005 in C.M.A.SR.No.124354 of 2004. The 2nd respondent/Insurance Company is directed to deposit the award

amount now determined by this Court, along with interest and costs, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellants are permitted to withdraw the award amount equally among themselves along with proportionate interest and costs. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge,
The Motor Accident Claims Tribunal,
Mettur.

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

+1cc to Mr.P.Mani, Advocate SR.3951

+1cc to Mr.J.Chandran, Advocate Sr.3806

C.M.A.No.762 of 2017

br[co]
srg 18/12/2020

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