



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2021

CORAM

THE HON'BLE Mr.JUSTICE D.KRISHNAKUMAR

C.M.A.No.1598 of 2003

1.Marimuthu
S/o.Pachiappan
2.Pachaiammal
W/o.Marimuthu

... Appellants/Petitioner

- Vs -

1.G.Perumal
S/o.Kavuru Gounder
2. Branch Manager,
United India Insurance Company Ltd.,
Dharmapuri.

... Respondents/Respondents

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the order and decretal order dated 21.08.2002 made in MACTOP.No.102/2002 on the file of the Motor Accident Claims Tribunal (Special Addl. District Judge), Krishnagiri.

For Appellants : Mr.M.Selvam

For Respondents : R1-Notice unserved
Mr.S.Arun Kumar
for R2

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the claimants, aggrieved by the order dated 21.08.2002 made in MACTOP.No.102 of 2002 passed by the learned Special Additional District Judge, Motor Accident Claims Tribunal, Krishnagiri.

2. The brief case of the claimants is that the deceased Muniappan was employed as a loading and unloading man in a lorry bearing registration No.TN-29-0997. On 19.08.1998 at about 7.00.p.m one of the lorry wheel punctured and the deceased helped the driver in replacing the punctured wheel. After completion of fitting the wheel, the deceased was standing behind the lorry, at that time, the driver of the lorry driven



the lorry in the reverse direction in a rash and negligent manner and dashed against the deceased and the back wheel ran over the head of the deceased, due to which, he sustained grievous head injuries. Immediately, he was taken to Government Head Quarters Hospital Dharmapuri and took treatment there upto 20.08.1998 and thereafter, he was taken to Kamalam Hospital at Dharmapuri for better treatment. Thereafter, he took treatment in the Government Head Quarters Hospital as Inpatient for several days and later, he died on 10.06.1999. According to the claimants, the accident happened only due to the rash and negligent driving of the driver of the lorry, which was insured with the second respondent and hence, both of them are liable to pay compensation to the claimants.

3. Before Tribunal, on the side of the appellants/claimants, two witnesses were examined and Ex.P1 to Ex.P4 were marked. On the side of the respondents, neither any witness has been examined nor any exhibits were marked.

4. After analysing the evidence on record, the Tribunal, by judgment dated 21.08.2002 rejected the claim petition filed by the claimants. Aggrieved by the said judgment, the claimants filed the present Civil Miscellaneous Appeal.

5. The learned counsel for the appellants/claimants would submit that due to the accident, the claimants' son was admitted in the Government Hospital and later, he was discharged from the hospital and thereafter, he had regularly taken treatment in the hospital. In spite of the regular treatment, the injured died on 10.06.1999. Therefore, the claim petition was filed by the parents of the deceased claiming a sum of Rs.5,00,000/- as compensation. The trial Court disbelieved the evidence placed before it and rejected the claim petition filed by the claimants and hence, he prays to set aside the award of rejection of the claim petition.

6. The learned counsel for the second respondent-Insurance Company strongly objected the contention of the claimants stating that the accident happened on 19.08.1998 and he was admitted as inpatient in a private hospital, Dharmapuri, since in the evidence, there was no medical evidence was placed before the Tribunal to prove that the deceased had taken continuous treatment till the death. There is no corroboratory evidence to prove that the deceased died due to the accident. Therefore, the Tribunal rightly rejected the claim petition and it does not warrant any interference.

7. Heard the learned counsel for the appellants, the learned counsel appearing for the second respondent-Insurance Company and also perused the entire materials available on record.



8. On perusal of the entire evidence, it is seen that PW-1/father of the deceased has deposed before the Tribunal that the deceased taken treatment for the injuries sustained by him in the accident, but no evidence was placed before the Tribunal to prove the same. The Tribunal has clearly held that no oral or documentary evidence was produced by the appellants to prove that the deceased had taken continuous treatment in the hospital. Further, there is no material placed before the Court to prove that the deceased died due to the injuries sustained by him in the accident. Further, though the deceased was discharged from the hospital on 20.08.1998 for more than eight months, he has not filed any claim petition seeking compensation. A perusal of wound certificate-Ex.P2 reveals that the deceased was suffered only fracture in the lower limb.

9. All the aforesaid facts clearly revealed that the death of the deceased was not occurred due to the accident and therefore, the Tribunal has rightly rejected the claim petition filed by the appellants. This Court is of the view that there is no merit in the Civil Miscellaneous Appeal and the same is liable to be dismissed.

10. In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

kmi

To

1.The Motor Accident Claims Tribunal,
Special Additional District Judge,
Krishnagiri.

Copy to:
The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mr.M.Selvam, Advocate, S.R.No.16780
+1cc to Mr.S.ArunKumar, Advocate, S.R.No.16776

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EV(CO)
CB(30/09/2021)