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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.M.A.NO.2944 OF 2006

United India Insurance Co.Ltd.,
Cuddalore

... Appellant/2nd Respondent

Versus

1.Thirugnanasoundari @ Soundari

... 1st Respondent/1st Petitioner

2.Chandira

... 2nd Respondent/2nd Petitioner

3.K.P.Thiruvengadam

(Set Exparte by the Claims Tribunal)

... 3rd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the decree and judgment dated 08.04.2003 made in MACTOP.No.563 of 1994 on the file of the Motor Accident Claims Tribunal (Additional Sub Court), Tindivanam.

For Appellant : Mr.M.J.Vijayaraghavan

For Respondents

For R1 & 2 : Mr.S.Kaithamalai Kumaran

R3 : Exparte

JUDGMENT

This appeal has been laid as against the decree and judgment dated 08.04.2003 made in MACTOP.No.563 of 1994 on the file of the Motor Accident Claims Tribunal (Additional Sub Court), Tindivanam, thereby awarded the compensation to the tune of Rs.1,80,000/-.



2. For the sake of convenience, the parties are referred to hereunder according to their litigative status before the Tribunal.

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3. The case of the claimants is that on 15.05.1994 at 3.00 p.m. when the deceased travelled in a mini van from Cuddalore to Sunambedu, at that time, when the van was going from Alandur to Asappur, it fell upside side due to its speed. Due to the accident, the deceased sustained grievous injuries and as such she was admitted in hospital. However, the treatment failed and she died on the next day. Therefore, the claimants filed claim petition seeking compensation at Rs.2,00,000/-.

4. Resisting the same, the second respondent filed counter stating that the deceased did not travel in the mini van as agent for the goods and she travelled without paying money. Therefore, the second respondent is not held to be liable for any compensation to the claimants and sought for dismissal of the claim petition.

5. On the side of the claimants, they examined P.W.1 and marked Ex.P.1 and Ex.P.2 On the side of the respondents nobody was examined and marked Ex.R.1. On the basis of the evidence available on records and also considering the submission made by the learned counsel appearing on either side, the Tribunal awarded compensation of Rs.1,80,000/-. Aggrieved by the same, the second respondent came forward with the present appeal.

6. The learned counsel for the appellant / second respondent submitted that the court below though framed issues in respect of negligence, unfortunately not answered properly on the question of negligence.

7. On perusal of records revealed that on 15.05.1994, when the deceased was travelling in a mini lorry accompanying the goods, the driver of the mini lorry had driven the lorry in a rash and negligent manner and due to which the lorry capsized and due to the impact, the deceased sustained grievous injuries and admitted in Government Hospital, Pondicherry. On 16.05.1994, she succumbed to injuries sustained by her in the accident. The first respondent is the owner of the vehicle and the second respondent is the insurer of the vehicle owned by the first respondent. FIR was registered as against the driver of the



lorry i.e. the first respondent, which is marked as Ex.P1. Though the second respondent examined to rebut the Ex.P1, there is no evidence. Therefore, only on the rash and negligent driving of the driver of the first respondent, the accident took place and the deceased died. Therefore, the Tribunal rightly awarded compensation as against the respondents and as such this Court finds that the award passed by the Tribunal does not warrant any interference.

8. Accordingly, this civil miscellaneous appeal is dismissed. No Costs. The appellant / insurance company is directed to deposit the total compensation of Rs.1,80,000/- with accrued interest and costs as determined at by the Tribunal, within a period of six weeks from the date of receipt of a copy of this judgment, after adjusting the amount, if any, already deposited. On such deposit, the respondents 1 & 2 herein/claimants are permitted to withdraw the amount awarded as apportioned by the Tribunal in accordance with law, less the amount if any already withdrawn by them.

Sd/-
Deputy Registrar(CS)

// True Copy //

Sub Assistant Registrar

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To

1. The Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Tindivanam.

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

+1cc to Mr.S.Kaithamalai Kumaran, Advocate, S.R.No.25380

C.M.A.No.2944 of 2006

PMK(CO)
RLP(23/11/2021)