



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 10.03.2021
CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
C.M.A (MD)No.1195 of 2010

and
M.P (MD)No.2 of 2010

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The District Collector,
Collectorate Office,
Madurai.

.. Appellant/Respondent

vs.

1.Muthupetchi
2.Manimegalai
3.Manimaran

..Respondents/Claimants

Prayer: Civil Miscellaneous Appeal filed under Section 173(1) of Motor Vehicles Act 1988 against the award and decree dated 25.03.2008 made in MCOP No.323 of 2006 on the file of the Motor Accident Claims Tribunal-cum-Sub Court, Periyakulam, Theni.

For Appellant : Mr.J.Gunaseelanmuthiah
Special Government Pleader
For Respondent : Mr.M.Jegadeeshpandian

J U D G M E N T

This appeal is directed against the award passed by the Motor Accident Claims Tribunal-cum-Sub Court, Periyakulam, Theni in MCOP No.323 of 2006.

2.This is a case of fatal accident. The claimants are the wife and children of the deceased Perumal. The case of the claimants is that on 12.05.2006 at 04.00 p.m the deceased Perumal was proceeding in a bicycle on Theni-Periyakulam main road and he stopped the bicycle and went to attend the nature's call. At that time, a Scorpio car bearing registration No.TN-58-G-5555 came in a high speed and hit against him. He was immediately taken to the Periyakulam Government Hospital, where he was declared brought dead. Hence, they are entitled for compensation of Rs.5,00,000/-.

3.The appellant herein resisted the claim petition disputing the averments made in the claim petition. According to the appellant, the driver of the Scorpio car was coming very slowly and by observing traffic rules, but the deceased was carelessly crossed the road and thereby he met with an accident. So, the appellant is not liable to pay compensation.

4.The claimant examined P.W.2 as eyewitness to the incident. He deposed in the line of the averments made in the claim petition. The First Information Report (Ex.P.1), Motor Vehicles Inspector's



Report (Ex.P.3) and Charge Sheet (Ex.P.4) were produced by the claimants to show that the criminal case was registered against the driver of the Scorpio car. No contra evidence was produced on behalf of the appellant. Therefore, the Tribunal, in my considered view, was right in coming to the conclusion that the driver of the Scorpio car was responsible for the accident.

5.P.W.1 stated that the deceased died at the age of 48 years. Ex.P.2 Postmortem Certificate also shows that he was 48 years old at the relevant point of time. P.W.1 further stated that the deceased was earning Rs.5,000/- by doing cattle business, but no documentary evidence was produced to support his case, hence, the Tribunal has fixed income at Rs.2,250/- per month, after deducting 1/3rd towards his personal expenses, calculated annual income Rs.18,000/- and by applying multiplier '12', awarded Rs.2,16,000/- for loss of income. In addition, the Tribunal has awarded Rs.500/- towards transportation; Rs.500/- towards loss of article; Rs.20000/- towards loss of consortium; Rs.10,000/- towards loss of love and affection and Rs.2000/- towards funeral expenses. It is seen that the total amount under the above heads comes to Rs.2,49,000/-. However, the Tribunal has wrongly awarded Rs.2,48,500/- instead of Rs.2,49,000/-.

6.Mr.J.Gunaseelanmuthiah, learned Special Government Pleader would argue that the Tribunal erred in fixing the entire liability on the appellant without considering the fact that the deceased is the tortfeasor. It is also contended that the deceased has suddenly crossed the road without seeing the vehicle moving on the road, fell down and got head injury and therefore, no compensation can be awarded to his legal heirs.

7.Per contra, Mr.M.Jegadeesh Pandian, learned counsel for the claimants would argue that the Tribunal on proper appreciation of evidence rendered finding, which does not warrant interference by this Court.

8.In the matter on hand, as already referred above, the claimants examined P.W.2 as eyewitness to the incident and also marked documents to show that the criminal case was registered against the driver of the offending vehicle. On the contrary, no evidence was adduced by the appellant in support of their claim. That apart, the claim is also fair and reasonable and hence, the contention of the learned Special Government Pleader is rejected and the award of the Tribunal is confirmed.

9.In that view, the Civil Miscellaneous Appeal is dismissed, as devoid of merits. The appellant is directed to deposit the entire award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw the award amount, less the



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amount already withdrawn, if any, as apportioned by the Tribunal together with proportionate interest and costs. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSIII)

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Sub Assistant Registrar(CS)

To

- 1.The Subordinate Court
The Motor Accident Claims Tribunal
-cum-Sub Court, Periyakulam, Theni.
- 2.The Record Keeper, (2C)
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

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The District Collector,
Collectorate Office,
Madurai.

+1 CC to M/s.SPL GP (SR-10535[F] dated 11/03/2021)

C.M.A (MD)No.1195 of 2010
and
M.P (MD)No.2 of 2010
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KB(24.05.2021) 3P 6C