



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 17.04.2021

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD)No.493 of 2011

and

M.P(MD)No.1 of 2011

Shyla

.. Appellant/Respondent

vs.

1.Parameswari

2.Sethuraman

3.Sudali @ Sumathi

(R2 and R3 declared as major vide
Judgment dated 17.04.2021)

4.Subbuthai

...Respondents/Petitioners

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the judgment and decree dated 30.12.2010 passed in MACOP No.1154 of 2009 on the file of the Motor Accident Claims Tribunal, II Additional District Judge, Tirunelveli.

For Appellant : Mr.G.Prabhu Rajadurai

For Respondents : Mr.T.Selvakumaran

J U D G M E N T

The owner of the car, who is held liable to pay compensation of Rs.4,20,500/- with interest at the rate of 7.5% per annum, challenges the said findings in this appeal.

2.The respondents herein are the wife, minor children and mother of the deceased Dievendran, who died in the road accident, which had occurred on 01.01.2009 at 09.00 p.m in front of E.B Office situated on Tiyyagaraja Nagar - Sivanthi Patti main road. It is alleged that when the deceased was driving his auto bearing registration No.TN-72-H-3053, in front of the E.B Office, a Maruthi car bearing registration No.TN-59-F-3553 owned by the appellant,



came in a high speed and hit against the auto. As a result, he sustained injuries and later succumbed to the injuries at Tirunelveli Medical College Hospital, Tirunelveli. Since the offending vehicle did not have an insurance coverage, the claim petition was filed against the owner of the vehicle.

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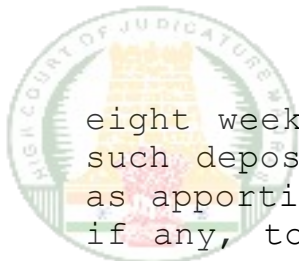
3.A counter affidavit has been filed by the appellant denying the involvement of her car bearing registration No.TN-59-F-3553 in the accident that had taken place on 01.01.2009. In support of her case, she also placed reliance on the First Information Report registered against her. Before the Tribunal, P.W.2-Azhahu and P.W.3-Ganesan gave evidence to establish that the vehicle of the appellant was involved in the accident. Even though it is mentioned in the FIR that the auto hit against the car in front of the E.B office, the Tribunal based on the evidence of P.Ws.2 and 3, held that the appellant was responsible for the accident.

4.The learned counsel for the appellant invited the attention of this Court to the observation made in the First Information Report. It is relevant to note that the First Information Report was registered not on the basis of the complaint of the eyewitness and the testimony of P.Ws.2 and 3 categorically proves the involvement of the vehicle of the appellant in the accident. It is to be noted that the deceased was 30 years old at the time of accident and the claimants are wife and minor children, 29 years, 9 years and 7 years, respectively and the mother of the deceased was 55 year old.

5.The Tribunal has fixed the notional income of the deceased at Rs.3,000/- per month and after deducting 1/3rd for his personal expenses, by applying multiplier '17', has awarded Rs.4,08,000/- towards loss of earning. Further, the Tribunal has awarded Rs.5,000/- towards funeral expenses; Rs.5,000/- towards loss of consortium and Rs.2,500/- towards loss of estate. In total, the Tribunal has awarded Rs.4,20,500/- along with interest at the rate of 7.5% p.a. The amount appears to be very reasonable and fair. So, in the light of the above facts, I find no merits in the appeal. Hence, the Civil Miscellaneous Appeal fails and the same is liable to be dismissed.

6.The claim petition is of the year 2009 and at that relevant point of time, the claimants 2 and 3 were minors and now, they have become major. So, they are declared as majors and the Tribunal is hereby directed to disburse their share.

7.In such view of the matter, this 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 their share as apportioned by the Tribunal, less the amount already withdrawn, if any, together with proportionate interest and costs. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

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Sub Assistant Registrar(CS)

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To

1.The II Additional District Judge,
Motor Accident Claims Tribunal,
Tirunelveli.

2.The Record Keeper-2 copies
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.T.SELVAKUMARAN, Advocate (SR-16644[F] dated 20/04/2021)

+1 CC to Mr.G.PRABHU RAJADURAI, Advocate (SR-16353[F] dated 19/04/2021)

JUDGMENT MADE IN
C.M.A(MD)No.493 of 2011
and
M.P(MD)No.1 of 2011
17.04.2021

KM(04.06.2021) 3P 6C