



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 26.08.2021

Delivered on : 06.09.2021

CORAM:

THE HONOURABLE **MRS.JUSTICE R.THARANI**

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C.M.A(MD) No.824 of 2014

and

M.P.(MD)No.1 of 2014

The Chief Engineer,
(Agricultural Engineering)
Department of Agricultural Engineering,
No.60, Thiruparankundram Road,
Madurai - 01.

... Appellant / Respondent

Vs.

1.K.Pandi
2.P.Vellaisamy
3.M.Nithya Devi
4.P.Lakshmi

... Respondents / Claimants

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to allow this appeal in M.C.O.P.No.1897 of 2009, on the file of the Motor Accident Claims Tribunal - District and Sessions Court (Communal Clashes Court), Madurai, dated 12.12.2012.

For Appellant	: Mr.A.Baskaran, Government Advocate
For Respondents	: Mr.P.Thiyagarajan

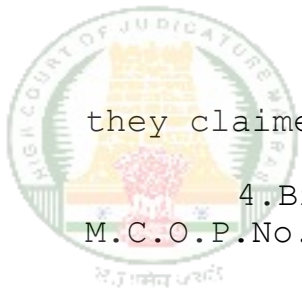
JUDGMENT

This Civil Miscellaneous Appeal is filed against the order, dated 12.12.2012, in M.C.O.P.No.1897 of 2009, on the file of the Motor Accident Claims Tribunal - District and Sessions Court (Communal Clashes Court), Madurai.

2.The appellant herein is the respondent and the respondents herein are the claimants in the claim petition.

3.Brief substance of the petition, in M.C.O.P.No.1897 of 2009, is as follows:-

On 08.07.2009, at about 02.00 p.m., when the deceased / Podhumponnu was walking along the Andarkottaram - Sakkimangalam main road, a harvesting machine cum vehicle, bearing Registration No.TN-58-G-0061, was driven by its driver in a rash and negligent manner, dashed against the deceased from the back side and she sustained injuries. She was admitted in Government Rajaji Hospital, Madurai and she died on 18.07.2009. The petitioners are the dependents and



they claimed a sum of Rs.6,00,000/- as compensation.

4. Brief substance of the counter filed by the respondent, in M.C.O.P.No.1897 of 2009. is as follows:-

The harvesting machine cum vehicle was parked on the left edge of the road, at that time, a mini bus was driven by its driver in a rash and negligent manner and it overtook the harvesting machine. The passenger, who came in a bus, crossed the road, when the respondent moved the harvesting machine, the deceased lost her balance and fell in front of the machine and sustained injuries. The death of the deceased was not due to the injuries sustained by her in the accident. The amount claimed is excessive.

5. On the side of the petitioners, two witnesses were examined and four documents were marked. On the side of the respondent, one witness was examined and no document was marked.

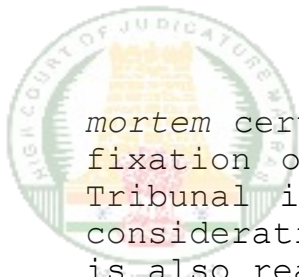
6. After considering both sides, the Tribunal awarded a sum of Rs.4,54,000/- as compensation. Against the same, the appellant has approached this Court by way of an Appeal.

7. On the side of the appellant, it is stated that the age of the deceased was fixed by the Tribunal as 35 years, without any proof for the same. The mini bus dropped the passenger on the right side of the road and the Tribunal failed to consider the same. The deceased was responsible for contributory negligence and the evidence of P.W.2 is not trustworthy, since P.W.2 is the son of the deceased.

8. The harvesting machine cum vehicle hit the deceased from the back side. F.I.R was registered against the driver of the harvesting machine and the Driver was not examined as a respondent side witness. The person, who was sitting near the driver was also not examined. In the above circumstances, it is decided that the driver of the harvesting machine cum vehicle is responsible for the accident.

9. On the side of the respondents / claimants, it is stated that age of the deceased as per the *post mortem* report is 35 years and that the age of the claimants mentioned in the legal heir certificate cannot be taken into account. The *post mortem* certificate is a valid and scientific record and no inference is required.

10. The age of the claimants mentioned in the legal heir certificate cannot be taken as a proof of age. The deceased is only an agricultural coolie and the only available document to show her age is the post mortem certificate. *Post mortem* certificate issued by a Doctor is a better record. The age as mentioned in the *post*



mortem certificate is only 35 years. Hence, it is decided that the fixation of age is reasonable and the multiplier applied by the Tribunal is also reasonable. Only notional income was taken into consideration and the conventional charges awarded by the Tribunal is also reasonable.

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11.In the above circumstances, it is decided that there is nothing sufficient enough to interfere in the orders of the Tribunal and the orders of the Tribunal is confirmed. This Civil Miscellaneous Appeal is **dismissed**. No costs. Consequently, connected Miscellaneous Petition is closed.

12.The appellant is directed to deposit Rs.4,54,000/- as compensation along with interest at the rate of 7.5% p.a from the date of petition till the date of deposit and cost within a period of eight weeks from the date of receipt of a copy of this judgment, if not already deposited. On such deposit being made, the respondents / claimants are permitted to withdraw their respective shares with proportionate interest as apportioned by the Tribunal, after deducting any amount received by them earlier. The Claimants are not entitled for interest for the default period, if there is any default.

Sd/-

Assistant Registrar (CO)

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/ /2021

Sub Assistant Registrar(CS)

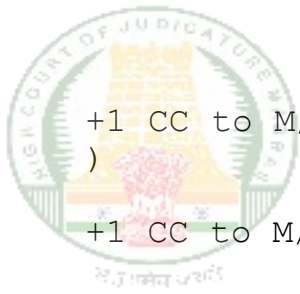
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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Motor Accident Claims Tribunal -
District and Sessions Court
(Communal Clashes Court),
Madurai.

2.The Section Officer, (2C)
VR Section,
Madurai Bench of Madras High Court,
Madurai.



C.M.A(MD)No.824 of 2014

+1 CC to M/s.P.THIYAGARAJAN, Advocate (SR-28249[F] dated 06/09/2021)

+1 CC to M/s.SPL GP (SR-28358[F] dated 07/09/2021)

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06.09.2021

MMs (CO)

KB(22.09.2021) 4P 6C