



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 25.06.2021

Delivered On : 09.07.2021

WEB COPY

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THE HONOURABLE MRS. JUSTICE R. THARANI

C.M.A. (MD) No. 740 of 2015

and

C.M.P. (MD) No. 6580 of 2020

A.L.Anandharajan

.. Appellant/1st Respondent

Vs.

1.G.Maragatham

2.P.Ganesan

.. Respondent No.1&2/Petitioners

3.The Divisional Manager,
M/s. Reliance General,
Insurance Company Ltd.,
First Floor, Sri Meenakshi Plaza,
No.55, 80 Feet Road,
Anna Nagar,
Madurai -20.

.. Respondent No.3/Respondent No.2

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree dated 20.12.2013 passed in M.C.O.P.No.185 of 2009 on the file of the Motor Accidents Claims Tribunal/District and Sessions Court, Madurai.

For Appellant : Mr.T.Lajapathi Roy

For Respondents 1 and 2 : Mr.R.Babu Jaganath

For 3rd Respondent : Mr.K.Gokul

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the award passed in M.C.O.P.No.185 of 2009 dated 20.12.2013, on the file of the Motor Accidents Claims Tribunal/District and Sessions Court, Madurai.

2.The appellant herein is the first respondent, the respondents 1 and 2 herein are the petitioners and the third respondents herein is the second respondent in the claim petition. The appellant has filed a claim petition in M.C.O.P.No.185 of 2009, claiming compensation for the death of one Narayana Murthi in an

of 2009 is

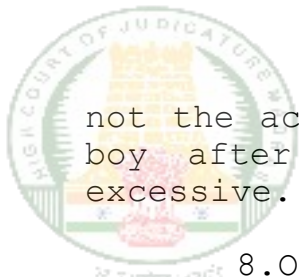
On 06.02.2008, at about 05.00 p.m., when the deceased Narayana Murthi was riding his bicycle along the Madurai Tirupathur Road, near Kollukudipatti villaku along the left side edge of the road, at that time, a Tata ace vehicle that belongs to the first respondent was driven by its driver in a rash and negligent manner dashed against the deceased and caused him injuries. He was taken to Thirupattur Government Hospital and then he was taken to Madurai Meenakshi Mission Hospital and he took treatment from 06.02.2008 till 02.05.2008, again from 12.05.2008 till 26.05.2008 and again from 09.06.2008 till 19.06.2008 and atlast till 06.10.2008. Subsequently, the deceased died succumbed to the injuries. The deceased was aged about 13 years and was studying 8th standard at the time of accident. The claimant claimed a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) as compensation.

It was the deceased who was negligent and he invited the accident. The driver of the first respondent vehicle did not drove the vehicle in a rash and negligent manner and he was not the cause of the accident. The claim is too excessive.

The vehicle was insured with the second respondent. The driver of the vehicle was not having valid driving licence at the time of the accident. The policy conditions are violated. The claim is excessive.

<https://hcservices.courts.gov/ind/services/>

7. On the side of the appellant, it is stated that the Tribunal has wrongly fixed the entire negligence on the part of the appellant driver. The deceased aged about 13 years drove the cycle in a careless and negligent manner and he fell down from the cycle and sustained injuries. The accident took place on 06.02.2008 but the deceased died only on 06.10.2008. There is no nexus between the service and the death of the deceased. The cause of the death is



not the accident but it was due to the improper maintenance of the boy after the treatment. The award fixed by the Tribunal is excessive.

8.On the side of the appellant, it is stated that the Tribunal has wrongly passed an order of pay and recover without considering the real facts and circumstances of the case. The entire negligence was wrongly fixed on the appellant. Whereas the entire negligence was on the part of the deceased.

9.On the side of the third respondent, it is stated that the driver of the vehicle was not having valid driving licence and that the appellant is the owner of the vehicle.

10.On the side of the respondents 1 and 2, it is stated that there was no negligence on the part of the deceased. The negligence is only on the part of the driver of the appellant. The claimant has already withdrawn 50 % of the award amount and the balance amount also be ordered to be withdrawn by the claimants.

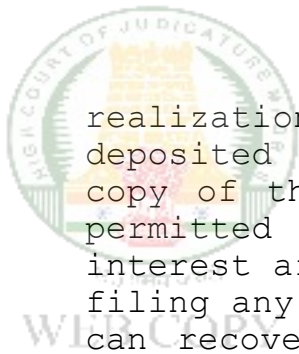
11.On the basis of the evidence and on the basis of Ex.P1 to Ex.P4, the Tribunal has fixed the liability on the driver of the appellant vehicle. On the basis of the evidence and on the basis of Ex.R1, the Tribunal has come to the conclusion that the insurance policy was valid.

12.On the side of the third respondent, it is stated that the driver of the first respondent was not having valid driving licence. In the above circumstances, the Tribunal has passed an order that the award amount to be paid by the third respondent and the third respondent can recover the same from the appellant. Since the appellant has allowed his vehicle to be driven by a person who is not having a driving licence, the pay and recover order passed by the Tribunal is reasonable. There is no serious dispute regarding the quantum. The award passed by the Tribunal under various heads is reasonable.

13.In the above circumstances, there is nothing sufficient enough to interfere in the order passed in M.C.O.P.No.185 of 2009 dated 20.12.2013, on the file of the Motor Accidents Claims Tribunal/District and Sessions Court, Madurai.

14.In the result, this Civil Miscellenaous Appeal is dismissed. The respondents 1 and 2 are entitled to a sum of Rs.7,28,000/- (Rupees Seven Lakhs and Twenty Eight Thousand only) as compensation with interest at the rate of 7.5% from the date of the claim petition till the date of realization.

15.The third respondent is directed to deposit Rs.7,28,000/- (Rupees Seven Lakhs and Twenty Eight Thousand only) with 7.5% interest from the date of the claim petition till the date of realization.



realization and the amount if not deposited earlier, has to be deposited within a period of 8 weeks from the date of receipt of copy of this order. On such deposit, the respondents 1 and 2 are permitted to withdraw their respective shares with proportionate interest after deducting any amount received by them earlier without filing any formal petition before the Tribunal. The third respondent can recover the amount from the appellant. Excess amount, if any deposited shall be refunded to the third respondent. The claimants are not entitled for interest for the default period, if there is any. No Costs. Consequently, connected C.M.P.(MD)No.6580 of 2020 is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MRN

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 Accidents Claims Tribunal, District and Sessions Judge,
Madurai.
- 2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.LAJAPATHY ROY, Advocate (SR-22015[F] dated 12/07/2021)

C.M.A. (MD)No.740 of 2015
09.07.2021

RK (30.07.2021) 4P 5C