



CMA.No2424 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2022

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THE HONOURABLE MS. JUSTICE P.T.ASHA

CMA.No.2424 of 2021
and
C.M.P.No.13803 of 2021

Syed Dhasthagir Basha

... Appellant/ Respondent

Vs

Savithiri

... Respondent / Respondent

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order and decree dated 22.03.2021 made in MCOP No.435 of 2015 on the file the MACT/Magalir Neethimandram (Fast Track Mahila Court, Vellore) by allowing this Civil Miscellaneous Appeal.

For Petitioner : Mr.M.Guruprasad

For Respondents : Mr.M.Sivakumar



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JUDGEMENT

Another illustration of how Motor Accident Claims are created is evident from a perusal of the case on hand. The appeal is filed by the owner of the vehicle against whom an award has been passed by the Motor Accident Claims Tribunal/Magalir Neethimandram (Fast Track Mahila Court, Vellore).

2. The said claim petition has been filed by the respondent herein claiming compensation for the death of her mother in an alleged road accident. In the claim petition, the petitioner would submit that on 13.01.2014 at about 03:25 p.m her mother who was aged about 75 years, had gone to purchase medicines from the medical shop situate near the R.T.O. Office Road at Sathuvachary. After purchasing the same she had crossed the National Highway to return home, at which time the car belonging to the appellant bearing Registration No.TN.09.Q.3232 proceeding from Chennai to Bangalore had dashed against the deceased, as a result of which she was thrown on to the road and had sustained fracture to the back of her head, right shoulder, both legs and she was immediately admitted at the Government hospital Adukkamparai and thereafter had



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taken treatment for 7 days in a private hospital where she finally succumbed to her injuries on 10.03.2014. A criminal case has been registered against the appellant herein.

3. It is the case of the petitioner that her mother was a cook master and earning a sum of Rs.25,000/- per month.

4. Since the car was not insured, the appellant had entered appearance and filed a counter denying the very accident and contented that the deceased had not died on account of the injuries sustained in a road accident.

5. The Tribunal had mulcted the liability upon the appellant herein and awarded a compensation of a sum of Rs.4,18,432/- to the respondent herein. Challenging the said award the appellant is before this Court.

6. Mr.Guruprasad, learned counsel appearing on behalf of the appellant would submit that except for the FIR there is no document to show that the deceased had been admitted in the hospital and had taken



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treatment there. Though the claimant has stated that her mother was initially admitted in the Government hospital at Adukkamparai and had taken treatment there and later in a private hospital not a shred of evidence has been filed to show the admission in the hospital or the fact that she had undergone treatment for 7 days. That apart, even going by the petitioner's case, it is unbelievable that a 75 years old lady who is in the sun set of her life with slow movements is permitted to cross the national highway unaided where the traffic ply at great speed. The petitioner who claims that her mother was returning home after purchasing the medicines has not proved this statement as well. Be that as it may, since the petitioner has not filed any documents to show the injuries or that the injuries had caused the death, therefore, the petitioner/claimant is not entitled to any compensation.

7. However the learned counsel appearing for the appellant would state that on humanitarian grounds the appellant is ready to pay a sum of Rs.13,000/- which the appellant is said to have incurred towards medical expenses. He would submit that the said amount can be withdrawn from the pre-deposit made by the appellant herein before filing this appeal. Consequently, the Civil Miscellaneous Appeal is allowed and the award of



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the Tribunal below is set aside with a direction that the respondent herein be permitted to withdraw a sum of Rs.13,000/- from out of the sum of Rs.25,000/- deposited by the appellant/respondent to the credit of the M.C.O.P. No.435 of 2015 on the file of the Motor Accident Claims Tribunal/Magalir Neethimandram (Fast Track Mahila Court, Vellore), the remaining amount shall be refunded back to the appellant herein. No costs. Consequently, the connected Miscellaneous Petition is closed.

10.08.2022

Index : Yes/No
Internet: Yes/No
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To

1. The Motor Accident Claims Tribunal/
Magalir Neethimandram (Fast Track Mahila Court, Vellore).
2. The Section Officer,
V.R. Section,
High Court, Madras.



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P.T. ASHA, J,

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