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C.M.A.Nos.2845 and 2855 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **04.11.2022**

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A. Nos.2845 and 2855 of 2014

and

M.P.Nos.1 and 1 of 2014 and 2 and 2 of 2014

R.Vajjiram

... Appellant in both C.M.As

Vs.

1. Vivekanandan
2. State of Tamil Nadu,
Rep by its Collector,
Krishnagiri District.

3. The Director General of Police,
Chennai.

4. The Superintendent of Police,
Krishnagiri District ... Respondents in C.M.A.No.2845 of 2014

1. K. Anbazhagan

2. State of Tamil Nadu,
Rep by its Collector,
Krishnagiri District.

3. The Director General of Police,
Chennai.

4. The Superintendent of Police,
Krishnagiri District ... Respondents in C.M.A.No.2855 of 2014



PRAYER in C.M.A.No.2845 of 2014 : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree in M.C.O.P.No.166 of 2011 dated 13.07.2012.

PRAYER in C.M.A.No.2855 of 2014 : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree in M.C.O.P.No.262 of 2011 dated 13.07.2012 on the file of the III Additional District and Sessions Court, Vellore, Tirupattur.

For Appellant : Mr.R. Ganesh Kumar
(in both CMAs)

For Respondent-1
(C.M.A.No.245/2014): Ms. Elizabeth Ravi

For Respondent-1
(C.M.A.No.2855 of 2014): Served-No appearance

: For Respondents 2 to 4 : Ms.P.Vijaya Devi
(in both CMAs)

COMMON JUDGMENT

The pillion rider and rider of the motorcycle bearing Registration No.TN-23-AW-9235 had filed M.C.O.P.Nos.318 of 2007 and 326 of 2007 respectively on the file of the Motor Accident Claims Tribunal, Subordinate Court, Tirupattur. The said claim petitions were thereafter transferred to the Motor Accident Claims Tribunal-cum-Additional District Court No.III,



Vellore and re-numbered as M.C.O.P.Nos.262 of 2010 and 166 of 2011 respectively.

2. The petitioners in M.C.O.P.No.262 of 2010 and M.C.O.P.No.166 of 2021 had claimed a compensation of a sum of Rs.5,00,000/-each. The contention of both the petitioners was that on 23.05.2007 at about 12.30 hours when two of them were proceeding on their Hero Honda motor-cycle, bearing Registration No.TN-23-AW-9235, a Jeep bearing Registration No.TN-29-G-0257 belonging to the respondents 1 to 3 driven in a rash and negligent manner by the 4th respondent, came in the opposite direction and collided with the motor-cycle, as a result of which, the petitioners in both claim petitions had sustained grievous injuries and both of them were admitted to the Government Hospital, Tirupattur. It is their case that the accident had occurred only on account of the rash and negligent driving by the 4th respondent.

3. The respondents had filed a counter *inter-alia* contending that the accident had occurred only on account of the rash and negligent driving by the petitioners. It is their case that the 4th respondent was driving the



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vehicle by maintaining the requisite speed and in a careful manner. It was the petitioners, who being minors, had ridden the vehicle in a rash and negligent manner and dashed against the vehicle of the respondents 1 to 3 and there was no negligence on the part of the 4th respondent. They would contend that the petitioner in M.C.O.P.No.166 of 2011, who was the rider of the bike, was a minor, and he did not possess a valid driving licence and the person, who was riding was also a minor and they were driving the vehicle in a rash and negligent manner. They would further submit that the entire claim is a false claim.

4. Insofar as MCOP.No.166 of 2011 is concerned, the Tribunal upon considering the evidence on record had recorded that the petitioner in the said MCOP was a minor and that he had ridden the vehicle without a valid licence, but considering the nature of the injuries sustained by him, it allowed the claim petition partly and granted an award of a sum of Rs.1,20,000/-. However, the Tribunal in its findings had held that the accident had occurred due to the negligence of the 4th respondent and also the fact that the rider of the motor-cycle, the claimant in MCOP.No.166 of 2011 was a minor at the time of the accident and he did not possess any



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valid driving licence. Hence, the Tribunal fastened the liability 50% on the 4th respondent and 50% on the petitioner in M.C.O.P.No.166 of 2011 and accordingly it directed the fourth respondent to pay a sum of Rs.60,000/- (50% of the award amount) to the petitioner in MCOP.No.166 of 2011.

5. Insofar as MCOP.No.262 of 2010 filed by the pillion rider, the Tribunal had awarded a sum of Rs.2,20,000/- to the claimant. The Tribunal in its findings had held that the accident had occurred due to the negligence of the 4th respondent and also the fact that that the claimant herein knowing well that the rider of the vehicle (claimant in MCOP.No.166 of 2011), did not possess valid licence, he traveled along with him, and hence it fastened the liability 50% on the claimant in MCOP.No.262 of 2010 and 50% on the fourth respondent, and accordingly it directed the fourth respondent to pay a sum of Rs.1,10,000/- (50% of the award amount of Rs.2,20,000/-) to the petitioner in MCOP.No.262 of 2010.

6. Aggrieved by the order of the Tribunal fastening 50% liability on him, the appellant has filed these appeals.



7. Heard the learned counsels on either side and perused the materials available on record.

8. The Tribunal below has considered the evidence on record and fastened the liability equally on both parties and I see no reason to disagree with the finding of the Tribunal below. Therefore, the compensation awarded by the Tribunal is also fair and reasonable. No case has been made out to establish that the liability fastened on him is on the higher side. Consequently, these civil miscellaneous appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

04.11.2022

Index : Yes/No
Speaking Order : Yes / No
srn

To

1.The III Additional District and Sessions Court, Vellore,
Tirupattur.

2.The Section Officer,
VR Section, Madras High Court,
Chennai.



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P.T. ASHA, J,

srn

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