



C.M.A.No.2690 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2022

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2690 of 2022

1.Vanitha (45),
W/o.Late Nagarajan,

2.Vignesh (26),
S/o.Nagarajan

Both are residing at
No.2/279, Bharathiar Street,
Tranquebar Village & Taluk,
Mayiladuthurai.

... Appellants

Vs.

1.Vijay (25), S/o.Nagarajan,
Residing at No.1/279, Bharathiar Street,
Tranquebar Town & Taluk

2.National Insurance Company Ltd.,
Rep. by Managing Director,
Having office at Hero Moto Corp. Vertical,
Delhi D.O.803, 8th Floor, Tower C,
Konnect O.S. Building,
Opp. to New Delhi Railway Station,
Bhav Bhuti Marg,
New Delhi 110 002.

... Respondents



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Prayer : Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the order passed in M.C.O.P.No.24 of 2017 dated 30.07.2019, on the file of Motor Accident Claims Tribunal (District Judge), Karaikal.

For Appellant : Mr.K.Varadhakamaraj

For Respondents : Mr.J.Chandran (for R2)

J U D G M E N T

The Appeal has been filed against the award passed in M.C.O.P.No.24 of 2017 dated 30.07.2019, on the file of Motor Accident Claims Tribunal (District Judge), Karaikal.

2.The claimants are the Appellant herein. For the sake of convenience, they are referred to as per their ranking before the trial Court.

3.The Petitioners filed MCOP.No.24 of 2017 before the Motor Accident Claims Tribunal, Karaikal, for the death of 1st Petitioner's husband viz.,



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Nagarajan in a road Accident on 11.05.2016. In the counter statement filed by the 2nd Respondent/Insurance Company, before the trial Court involvement of the vehicle having registration No.TN 82 B 4443 is disputed.

4.During the course of trial, on the side of the Petitioners, PW1 to PW3 were examined and Ex.P1 to Ex.P.11 were marked and on the side of the Respondents RW1 was examined and Ex.R1 and Ex.R2 were marked.

5.Heard the learned counsel appearing on both side.

6.Based upon the oral and documentary evidences, especially, evidence of PW2, who is projected as occurrence witness and evidence of Ex.P.1 and Ex.P.2, the trial Court has given a categorical finding as under:

“On careful perusal of Ex PL FIR it is found that the said PW2 has stated that his father the deceased Nagarajan has parked his motorcycle on the left side and crossed the road to reach the Indian Bank ATM at that time the offending vehicle bearing Reg. No.TN 82 B 4443 came in a rash and negligent manner and dashed against the deceased and caused injuries to him. However, contrary to the above FIR, PW2 has deposed before this court that



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his father has driven the motorcycle bearing Reg. No.PY 02 K 0788 and the offending vehicle has dashed against him along with motorcycle. Though PW2 in his chief examination deposed that the police has obtained his signature in a blank sheet and informed him that they will record the information belatedly. PW2 has not produced any material before this court to show that after he came to know about the lodging of FIR, he protested against the said false information.”

...

“Furthermore, PW2 in his cross examination deposed that he does not know who has given information with regard to the accident to the police, Further, though he claimed that there were relatives of the accused in the above case are in the police, they have lodged such false information. The above allegations remains only as a bald allegation.”

...

“Even as per the petitioners, the deceased is one who has crossed the road and invited the accident. Therefore, this court is of the considered view, the evidence of PW2 before this court that the deceased came in a motorcycle and met with the accident is nothing but an after thought to lay a claim before this court.”

and held that the involvement of the vehicle is not proved in the manner known



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to law, in the absence of any positive evidence for the negligence on the part of the alleged vehicle.

7.In view of the contradictory statement made by PW2 in the witness box and the documentary evidences, the above reasoning recorded by the Tribunal cannot be interfered with nor can be stated to be unsustainable in law and hence, I find that no merit to interfere with the well considered finding of the Tribunal.

8.Accordingly, the Appeal is dismissed at the stage of admission itself.

No costs.

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Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

sai

To

The Motor Accident Claims Tribunal (District Judge),
Karaikal.



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RMT.TEEKAA RAMAN.J,

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