



C.M.A.(MD).No.620 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2022

CORAM

THE HONOURABLE MR.JUSTICE AA.NAKKIRAN

C.M.A(MD) No.620 of 2020

and

C.M.P(MD) No.6493 of 2020

1. The Additional Director General of Police,
Enforcement, Chennai,
having its office at
Door No.21, Sivanantha Road,
Senthupattu Post, Chennai.

Now

The Special Director General of Police,
Enforcement, Chennai.

2. The Superintendent of Police,
Prohibition Enforcement,
Madurai Zone, Madurai.

... Appellants/Respondents

vs.

- 1.Thangaraj Devar
2. Rajammal

... Respondents/Petitioners



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PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decretal order passed by the Motor Accident Claims Tribunal, Dindigul in M.C.O.P.No.997 of 2017, dated 19.12.2019 and to set aside the same.

For Appellants : Mr.T.Villavankothai
Additional Government Pleader
For Respondents : Mr.S.Pugalendhi

J U D G M E N T

This appeal has been preferred challenging the award passed by the Motor Accident Claims Tribunal, Dindigul in M.C.O.P.No.997 of 2017, dated 19.12.2019.

2. The brief facts of the case are that the parents of the deceased Maheswaran filed the M.C.O.P.No.997 of 2017, claiming compensation of Rs.30,00,000/-. It is their case that their deceased son Maheswaran was riding a Motorcycle bearing Registration No.TN 49 AA 8058, on 22.07.2017, at 6.50 p.m., when he was near Kamatchipuram pirivu



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towards east to west, a Police Ambassador Car bearing Registration No.TN 07 AG 0456 owned by the respondents came from the opposite direction in a rash and negligent manner and hit against the deceased motorcycle. In the impact, the deceased was thrown away and he sustained multiple grievous injuries all over the body. Immediately, he was taken to Dindigul Government Hospital and then he was admitted in Madurai Preethi Hospital and then admitted in Dindigul Government Hospital and on 13.02.2017, the Doctors found that he was died. The accident had happened only due to the rash and negligent driving of the respondents' driver. At the time of accident, the deceased was aged about 31 years and he was doing centering work and earned Rs.15,000/- per month.

3. A counter affidavit has been filed by the first appellant before the Tribunal stating that the respondents have deliberately suppressed the real owner of the vehicle and the vehicle involved in the accident does not belong to the respondent's Enforcement, Chennai. Hence, the first appellant is not liable to pay any compensation.



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4. A counter affidavit has been filed by the second appellant stating that the second respondent's driver drove the vehicle in a careful manner and following the traffic rules and regulations on the left extremity of the road, but the deceased drove the vehicle in a drunken condition and dashed against the car and invites the accident. Hence, the accident was occurred due to the carelessness and negligence of the deceased and the deceased has no driving licence at the time of accident. Hence, the petition is liable to be dismissed.

5. In order to prove the case of the claimants, on the side of the claimants, two witnesses were examined as P.Ws.1 and 2 and 7 documents were marked as Exs.P1 to P7 and on the side of the respondents, two witnesses were examined as R.Ws.1 and 2 and 11 documents were marked as Exs.R1 to R11.

6. The Tribunal, after considering the oral and documentary evidence, allowed the claim petition partly and directed the appellants to



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pay a sum of Rs.10,70,800/- towards compensation with interest at the rate of 7.5% per annum jointly and severally. Challenging the same, the respondents have filed the present appeal.

7. Mr.T.Villavankothai, learned Additional Government Pleader appearing for the appellants would submit that the deceased Maheswaran drove the vehicle in a drunken mood and without following the rules and regulations, dashed against the car and invites the accident. Hence, the liability fixed on the appellants is not sustainable. Further, the Tribunal came to a wrong conclusion that the age of the deceased is 31 and applied multiplier '16' and passed the award.

8. Per contra, Mr.S.Pugalendhi, learned counsel appearing for the respondents would submit that the deceased Maheswaran has not drove the vehicle in a drunken mood and in the attested copy of postmortem certificate of Maheswaran/Ex.P2 and in the death certificate of Maheswaran/Ex.P3, the age of the deceased Maheswaran was mentioned as '31'.



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9. Heard the learned Additional Government Pleader appearing for the appellants and the learned counsel appearing for the respondents and perused the materials available on record.

10. A perusal of Exs.P1 and P2 reveals that the deceased Maheswaran was 31 years old at the time of accident. Therefore, the Tribunal has rightly applied the multiplier '16'. Further, in the postmortem certificate of Maheshwaran/Ex.P2, nothing mentioned about that the deceased consumed alcohol. Therefore, the Tribunal has rightly come to the conclusion and there is no merit in the appeal.

11. In the result, the Civil Miscellaneous Appeal is dismissed and the award passed by the Motor Accident Claims Tribunal is confirmed. In view of the dismissal of the appeal, the appellants shall deposit the entire award amount with interest and cost to the credit of the claim petition, within a period of eight weeks from the date of receipt of the copy of this Judgment. On such deposit being made, the claimants are permitted to



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withdraw the entire award amount along with accrued interest and costs,
without filing any formal petition before the Tribunal. No costs.
Consequently, the connected Miscellaneous Petition is closed.

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Index:Yes/No
Internet:Yes/No

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To

The Motor Accident Claims Tribunal,
Dindigul.



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AA.NAKKIRAN,J.

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