



C.M.A.No.1787 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

C.M.A.No.1787 of 2013

and

M.P.No.1 of 2013

The Branch Manager,
The United India Insurance Co. Ltd.,
No.26, Jawaharlal Nehru Street, Pondicherry. ... Appellant

Vs.

1.Devarajan
2.Valarmathi
3.Krishnammal ... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree made in M.C.O.P.No.677 of 2008 on the file of the Motor Accidents Claims Tribunal (Principal Sub Judge) at Tindivanam dated 14.03.2012.

For Appellant : Mr.M.Krishnamoorthy

For Respondents : Mr.C.Chokkalingam [R1]

Given up [R2]

Not Ready in Notice [R3]



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JUDGEMENT

The Civil Miscellaneous Appeal is filed by the appellant/ insurance company against the judgement and decree passed by the Motor Accidents Claims Tribunal (Principal Sub Judge) at Tindivanam in M.C.O.P.No.677 of 2008, dated 14.03.2012.

2. It is the case of the claimants that, on 17.04.2006 at about 08.00 hours, when the deceased Sivabakkiyam was walking on the left side of the mud road, a motorcycle bearing Regn.No.PY-01-AC-8012 belonging to the first respondent and insured with the second respondent, driven by its driver in a rash and negligent manner, dashed against the deceased, thereby, the deceased sustained grievous injuries and inspite of the treatment given, the deceased succumbed to the injuries. Therefore, the claimants have filed a claim petition claiming a sum of Rs.5,00,000/- for the death of the deceased.

3. Before the Tribunal, the claimants examined two witnesses viz., P.W.1 and P.W.2 and marked 4 documents viz., Ex.P.1 to Ex.P.4. On the side of the respondents, they have examined two witnesses viz., R.W.1



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and R.W.2 and marked 4 documents viz., Ex.R.1 to Ex.R.4. After adjudication, the Tribunal awarded the compensation in a sum of Rs.2,51,000/- with an interest at the rate of 7.5%. Questioning the quantum of compensation and liability, the insurance company has preferred the present appeal.

4. The learned counsel appearing for the appellant/insurance company submitted that, the respondents 1 and 2 are not the dependants of the deceased and the deceased is a bachelor and the first respondent is the brother of the deceased, who is aged about 50 years and at the time of death, the deceased was aged about 60 years and the first respondent cannot be a dependant of the deceased. However, without considering the above aspects, the Tribunal awarded compensation in favour of the first respondent, which is wholly unsustainable. Further, at the time of accident, the driver of the motorcycle was not possessed of a valid driving licence and he had obtained Ex.R.1/driving licence only on 26.03.2007, however, the accident had happened on 17.04.2006, which is prior to the date of obtaining the driving licence. Hence, all those facts were not properly considered by the Tribunal and awarded compensation in favour



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of the first respondent is wholly unsustainable, which requires to be interfered with. Accordingly, he prays for allowing the appeal.

5. Per contra, the learned counsel appearing for the first respondent submitted that, the first respondent is the brother of the deceased and the second respondent is the sister-in-law of the deceased and both were doing agriculture and milk vending and the deceased contributed major share to the family of the first respondent. Without the earning of the deceased, the respondents 1 and 2 have suffered a lot, thereby they have filed claim petition before the Tribunal and the said facts was elaborately considered by the Tribunal and the Tribunal had awarded compensation, which cannot be interfered with. Further, the driver of the motorcycle obtained the driving licence on 26.03.2007, however, accident had happened on 17.04.2006, prior to that, the driver of the vehicle would have obtained LLR, which was not marked before the Tribunal and non-marking of the LLR cannot be put against the claimants. Therefore, the compensation awarded by the Tribunal does not require interference. Accordingly, he prays for dismissal of the appeal.



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6. Heard the learned counsel for the appellant and the learned counsel appearing for the first respondent and perused the materials available on record.

7. The accident is not in dispute. The main grievance of the appellant is that the claimants are not the dependants of the deceased and, therefore, not entitled to any compensation. Though such a contention is advanced, however, it is not the case of the appellant that the deceased was living along with the claimants. In the absence of any such evidence with regard to the deceased not living with the claimants, the earnings of the deceased would necessarily have been expended on the family of his brother and to that extent the loss sustained by the claimants cannot be said to be unacceptable.

8. Insofar as the non-possession of licence by the driver of the vehicle on the date of the incident, it is to be pointed out that the non-holding of a valid driving licence cannot be put against the claimants and the Motor Vehicles Act being a benevolent legislation, the dependants of the deceased are entitled to compensation at the hands of the insurer.



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Rightly appreciating the aforesaid fact, the Tribunal has awarded just and reasonable compensation, which cannot be interfered with.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed and the judgement and decree passed by the Motor Accident Claims Tribunal (Principal Sub Judge) at Tindivanam in M.C.O.P.No.677 of 2008, dated 14.03.2012 is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp



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To

1.The Motor Accidents Claims Tribunal (Principal Sub Judge) at Tindivanam.

2.The Section Officer, V.R.Section, High Court, Madras.



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M.DHANDAPANI, J.,

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