



C.M.A.No. 2378 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.06.2023

Coram:

THE HONOURABLE MRS. JUSTICE N.MALA

C.M.A.No. 2378 of 2022

and

CMP.No. 1170 of 2022

1.Mageshwari

2.Vijayakumar

3.Jegannathan

... Appellants

Versus

1.The District Forest Officer

District Forest Office

Vellore Division, Fort Vellore,

Pin-632 009.

2.R.Vinayagam

... Respondents

Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, prays to set aside the judgment and decree and to fix the liability against the respondents are jointly and severally liable to pay compensation by enhancing the award in the judgment and decree dated 01.11.2018 made in MCOP.No. 277 of 2015 on the file of Motor Accidents Claims Tribunal/Additional District Court/(FTC) at Kanchipuram.

For Appellants : Mr.M.Lokesh

For 1st Respondent : Mr.C.Jayaprakash

Government Advocate

For 2nd Respondent : Ex-parte before the Tribunal



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JUDGMENT

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The claimants have filed the above appeal for enhancement of compensation and also for a direction to the first respondent/Government to pay the compensation of Rs.18,84,400/- awarded by the Tribunal and recover the same from the second respondent driver.

2. The parents of the deceased filed the claim petition seeking a sum of Rs.20,00,000/- as compensation for the death of their son in a motor accident which took place on 28.03.2015. The deceased was aged about 22 years at the time of accident, was working in Samsung Utility Services Limited, Sriperambadur, and earning a sum of Rs.10,000/- per month.

3. The Claims Tribunal on an assessment of the entire evidence on record, rendered a finding of negligence against the 2nd respondent, the driver of the Bolero Van belonging to the first respondent/Government. The Tribunal on the basis of the evidence on record, awarded compensation at Rs.18,84,400/- along with 7.5% interest and further directed the 2nd respondent, the driver of the Bolero Van to pay and recover the same from the Government/1st respondent.



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4. Therefore, the only point to be adjudicated in the appeal, is whether the direction issued by the Claims Tribunal to the second respondent/driver to deposit the entire award amount and thereafter, to recover the same from the first respondent/Government is sustainable.

5. The learned counsel for the appellant submitted that the Tribunal ought to have issued direction to the first respondent/Government, the owner of the Bolero Van to pay the compensation and thereafter, to recover the same from the driver of the second respondent, because the claimants would suffer as it would be impossible to recover the compensation from the driver of the transport corporation bus.

6. I find justification in submission of the learned counsel for the appellants and therefore, the direction issued by the Claims Tribunal, directing the 2nd respondent to deposit the entire award amount and thereafter, to recover the same from the first respondent/Government is set aside. Therefore a direction is issued to the first respondent/Government to deposit the entire award amount of Rs.18,84,400/- within a period of 8 weeks from the date of receipt of a copy of this order and thereafter, to recover the



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same from the 2nd respondent.

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7. On such deposit being made, the claimants are entitled to withdraw the entire award amount as per the apportionment made by the Claims Tribunal by making appropriate application before the Tribunal.

8. Accordingly, the appeal is allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

22.06.2023

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

msm

To

1. The Additional District Court/(FTC)
Motor Accidents Claims Tribunal, Kanchipuram.

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



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N.MALA.J.,

msm

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