



C.M.A.No.1681 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

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&

C.M.P.No.13177 of 2018

1.The Collector of Vellore District
Sathuvachari, Vellore-632 009

2.The Director of Rural Development
Panagal building
Saidapet, Chennai-600 015

... Appellants

Vs.

1.Valli

2.Dhanasekaran

3.Minor Anandan

4.Minor Nithiya
(minor respondents 3 and 4
are represented by their next
friend Mother Valli)

5. Panjalai

... Respondents



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PRAYER: Appeal filed under Sec. 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 27.03.2012 made in M.C.O.P.No.303 of 2008 on the file of Motor Accident Claims Tribunal (Sub Court) Tirupattur.

For Appellants : Mr.C.Sathish, Govt. Advocate

For Respondents : Mr.F.Terry Chella Raja

JUDGMENT

The above Civil Miscellaneous Appeal is preferred at the instance of the Collector of Vellore and Director of Rural Development, Chennai, against the judgment and decree passed in M.C.O.P.No.303 of 2008 dated 27.03.2012 on the file of the Sub Judge, Thirupattur, awarding a sum of Rs.6,07,000/- as compensation to the claimants in the said M.C.O.P.

2. Claimants being wife, children and mother of the deceased, one Chakravarthi, approached the Motor Accidents Claims Tribunal seeking compensation of Rs.7,00,000/- for the death of the said Chakravarthi in a road accident that occurred on 05.04.2008.



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3. The case of the claimants before the Tribunal was that on the fateful day, the jeep belonging to the respondents before the Tribunal, the appellants herein was driven in a rash and negligent manner and dashed against the deceased Chakravarthi who was riding his TVS Champ motor cycle in the same direction. The first appellant filed a counter before the Tribunal stating that the FIR which was given by the son of the deceased was sufficient to deny compensation since even in the FIR, it was mentioned that the deceased had suddenly crossed the road. The 1st respondent also contended that its driver had also been acquitted in the criminal case. In any event, according to the 1st respondent the claim of Rs.7,00,000/- was arbitrary and exorbitant.

4. Before the Tribunal, 1st claimant, wife of the deceased Chakravarthi, examined herself as P.W.1 and one Rathinam was examined as P.W.2. Exs.P1 to P9 were marked on the side of the claimants. On the side of the respondents R.W.1-Muniraj and R.W.2-Ganapathi were examined. Ex.R1 was marked on the side of the respondents.



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5. The Tribunal, on appreciation of oral and documentary evidence, found that the vehicle of the respondents was driven in a rash and negligent manner and consequently there was no negligence on the part of the deceased Chakravarthi.

6. The Tribunal took into account Ex.P.8 and fixed the notional income of Rs.150/- per day adopting a multiplier of 14. The Tribunal arrived at the loss of income at Rs.5,67,000/-. Additionally, the Tribunal awarded Rs.15,000/- towards loss of love and affection, Rs.15,000/- towards loss of consortium, Rs.5,000/- towards transportation expenses and Rs.5,000/- towards funeral expenses. In all a sum of Rs.6,07,000/- was awarded as total compensation.

7. Aggrieved by the said award of the Tribunal, the respondents in the claim petition, as appellants, are before this Court.

8. The grounds of challenge are that the Trial Court failed to appreciate



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the vital fact that the son of the deceased himself has given the FIR to the Police and according to the FIR the entire fault was only on the deceased and not on the driver of the appellants. The other main ground raised by the appellants is that the claimants failed to prove the income and age of the deceased by adducing sufficient acceptable documentary evidence and the Tribunal erred in passing an award despite the claimants not letting in even basic required evidence in support of their claim.

9. Heard Mr.C.Sathish, learned Government Advocate appearing for the appellants and Mr.F.Terry Chella Raja, learned counsel for the respondents.

10. This Court has gone through the oral and documentary evidence on record. The FIR lodged by the son of the deceased is also carefully perused. The Tribunal, has at great length discussed the evidence of P.W.1 and P.W.2 as well as R.W.1 who was said to have witnessed the accident in person. The Tribunal also took into account the order passed in criminal case viz., 210 of



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2008, which was exhibited as R1. The Tribunal has weighed the oral evidence of P.W.2 as against the evidence of R.W.2 and found that there was no negligence on the part of the deceased and came to the conclusion that the evidence of P.W.2 was more probable and believable and accepted his version as against the evidence of R.W.2 in coming to a conclusion that negligence was only on the part of the appellants' jeep.

11. This Court finds that the Tribunal has applied its mind to the available oral and documentary evidence adduced by the respective parties in coming to the conclusion that there is no negligence on the part of the deceased and consequently fixed the liability on the appellants. This finding does not warrant any interference.

12. Even in so far as fixing the compensation, the Tribunal has adopted a proper and judicial approach, based on oral and documentary evidence before it. The Tribunal has fixed a sum of Rs.150/- per day as notional income of the deceased who was admittedly employed as a painter.



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Considering that the accident had occurred in the year 2008, this Court feels that the sum of Rs.150/- per day in other words Rs.4500/- per month is reasonable and does not call for any interference. The Tribunal has also rightly deducted 1/3rd towards personal expenses/contribution of the deceased in arriving at the compensation payable to the claimants.

13. This Court does not find any error or infirmity in the findings of the Tribunal, warranting interference by this Court in Appeal. In fine, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

20.04.2023.

Internet:Yes
Index:Yes/No
kpr

To
1.The Motor Accident Claims Tribunal (Sub Court)
Tirupattur.

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

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P.B.BALAJI, J.,
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