



C.M.A.No.1026 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1026 of 2014

And

M.P.No.1 of 2014

Branch Manager
National Insurance Co. Ltd.,
50, Janapath,
New Delhi – 110 001.

... Appellant

Vs.

1.Subramaniam
2.Indira
3.P.Vadivel
4.Meenakshiammal
(Amended as per order in I.A)

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 28.09.2012 made in M.C.O.P.No.1181 of 2009 on the file of the Motor Accidents Claims Tribunal, II Additional District and Sessions Judge, Tirupur.

For Appellant : Mr.S.Arun Kumar
For Respondents : Mr.Ma.P.Thangavel for R1 & R2
R3 – No Appearance
R4 – NRN



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J U D G M E N T

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The second respondent Insurance Company before the Motor Accidents Claims Tribunal is the appellant herein. This appeal has been filed seeking to set aside the order dated 28.09.2012 passed by the Motor Accidents Claims Tribunal, II Additional District and Sessions Judge, Tirupur, in M.C.O.P.No.1181 of 2009.

2.The brief facts of the case is that on 01.08.2009 at about 19.00 hours, the deceased Suresh was travelling as a pillion rider in a motor cycle bearing Registration No.TN – 25 – K – 9243, from West to East in Tiruppur and when the vehicle was near Diamond Theatre, the driver drove the vehicle in a rash and negligent manner and dashed against unknown vehicle, due to which, the said Suresh sustained serious injuries and was taken to Government Hospital, Tiruppur, however, he died.

3.Thereafter, the dependants of the deceased Suresh/ respondents 1 and 2 filed claim petition before the Motor Accidents Claims Tribunal, II Additional District and Sessions Judge, Tirupur, claiming compensation of Rs.10 Lakhs. After adjudication, the Motor Accidents Claims Tribunal fixed 50% liability on the part of the third



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respondent and as the insurer of the third respondent's vehicle, directed the appellant Insurance Corporation to pay 50% of the total compensation a sum of Rs.3,78,000/- (50% of Rs.7,56,000/-) with interest at the rate of 7.5% p.a. from the date of petition till the date of payment and proportionate costs. Aggrieved by the same, the appellant Insurance Company has filed this appeal. The Tribunal further observed that the first respondent and the fourth respondent are entitled to receive equal share in the above compensation i.e., Rs.1,89,000/- each.

4.The learned counsel appearing for the appellant submitted that the deceased travelled as a pillion rider and it is alleged that the third respondent's vehicle dashed against an unknown vehicle, however, the said unknown vehicle was not yet identified and hence fastening 50% liability on the part of the third respondent and directing the appellant Insurance Company to pay 50% of the total compensation is not sustainable one.

5.The learned counsel appearing for the respondents 1 and 2 submitted that admittedly, the deceased was travelling as a pillion rider in the motor cycle driven by the third respondent. The third



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respondent drove the vehicle in a rash and negligent manner and dashed against an unknown vehicle, thereby the deceased lost the life. All the facts were properly adjudicated by the Tribunal and hence, the impugned award needs no interference.

6.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondents 1 and 2 and perused the materials available on record.

7.Admittedly, on 01.08.2009 at about 19.00 hours, the deceased Suresh was travelling as a pillion rider in a motor cycle bearing Registration No.TN – 25 – K – 9243, from West to East in Tiruppur and when the vehicle was near Diamond Theatre, the driver/ third respondent drove the vehicle in a rash and negligent manner and dashed against unknown vehicle, due to which, the said Suresh sustained serious injuries and was taken to Government Hospital, Tiruppur, however, he died.

8.Thereafter, the dependants of the deceased Suresh filed claim petition before the Motor Accidents Claims Tribunal, II Additional District and Sessions Judge, Tirupur, claiming compensation of



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Rs.10Lakhs. After adjudication, the Motor Accidents Claims Tribunal fixed 50% liability on the part of the third respondent and as the insurer of the third respondent's vehicle, directed the appellant Insurance Corporation to pay 50% of the total compensation a sum of Rs.3,78,000/- (50% of Rs.7,56,000/-) with interest at the rate of 7.5% p.a. from the date of petition till the date of payment and proportionate costs. The Tribunal properly appreciated the factual findings and fixed 50% liability on the part of the third respondent and awarded compensation, which is just and reasonable and the same warrants no interference.

9.The civil miscellaneous appeal stands dismissed. The award and decree passed in M.C.O.P.No.1181 of 2009, dated 28.09.2012 by the Motor Accidents Claims Tribunal, II Additional District and Sessions Judge, Tirupur, is confirmed.

10.The appellant/ Insurance Company is directed to deposit the award amount before the Tribunal within a period of four weeks from the date of receipt of a copy of this order, less the amount if any, already deposited. On such deposit being made, the respondents 1 and 4 are permitted to withdraw their respective shares as



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apportioned

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M.DHANDAPANI,J.

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by the Tribunal, along with accrued interest and proportionate costs,
on making proper and necessary application before the Tribunal.

11.The civil miscellaneous appeal is dismissed. No costs.
Consequently, the connected miscellaneous petition is closed.

10.10.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
II Additional District and Sessions Judge,
Tirupur.

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