



C.M.A.No.3994 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.10.2023

CORAM:

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

C.M.A.No.3994 of 2019

and

CMP.No.22569 of 2019

Selvaraj

...Appellant

Vs.

1. Ramya

2. Minor Dhakshitha

Rep. By her natural guardian / Mother Mrs.Ramya

3. A.Manikandan

4. Jothimani

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, as against the decree and Judgment dated 22.12.2017 passed in MCOP.No.602 of 2015 on the file of the Motor Accidents Claims Tribunal / IV Additional District Judge, Coimbatore.

For Appellant : Mr.Amar D.Pandiya
for Mr.M.Mohamed Riyaz

For Respondents : Mr.Ma.Pa.Thangavel, for R1 to R4



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JUDGEMENT

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Challenging the Judgment and decree dated 22.12.2017 passed in MCOP.No.602 of 2015 on the file of the Motor Accidents Claims Tribunal / IV Additional District Judge, Coimbatore, the appellant has preferred this Appeal.

2. The case of the appellant is that, the respondents/dependents of the deceased Rajagopal, filed a claim petition claiming a compensation of Rs.20,00,000/- on the ground that, on 16.08.2015 at about 12.00 Hrs., when the deceased was riding his HONDA SHINE Motor cycle bearing Regn.No. TN-38-BY-2135 in a slow and cautious manner, near Lorry Association Oil Company, Thadagam Road, a BAJAJ Scooter bearing Regn.No.TN-B-4405, owned and driven by the appellant in a rash and negligent manner, without any signal suddenly turned right and dashed against the motor cycle driven by the deceased, as a result of which, the said Rajagopal fell down and sustained fatal injuries all over his body and he subsequently passed away. Therefore, a claim petition was filed claiming compensation. After contest, the Tribunal, vide



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impugned judgment awarded a compensation of Rs.7,99,000/-. Aggrieved with the said order, the present appeal has been filed by the owner cum driver of the offending vehicle, questioning the quantum of compensation as also the liability fixed by the tribunal.

3. Learned counsel for the appellant submitted that, though the respondents have filed a claim petition under Section 166(1)(c) of the Motor Vehicles Act, 1988, (in short 'MV Act') as against the appellant claiming compensation for the accident that took place on 16.08.2015, in which, the tribunal arrived at a conclusion that the negligence was on the part of the appellant, similarly, the appellant also filed a claim petition as against the deceased, by impleading his Legal representatives i.e., the respondents herein in MCOP.No.1120 of 2017 on the file of the Special Sub Judge, Motor Accident Claims Tribunal, Coimbatore, in which, the Tribunal arrived at a conclusion that the negligence was on the part of the deceased and awarded a compensation as against the LR's of the deceased Rajagopal, which was not challenged by the respondents before this Court. Hence, the impugned award dated 22.12.2017 passed in MCOP.No.602 of 2015 by the IV Additional



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District Judge, Motor Accidents Claims Tribunal, Coimbatore is not sustainable. Accordingly he prayed for appropriate orders.

4. Learned counsel appearing for the respondents submitted that, the above said accident happened solely due to the rash and negligent act of the appellant, in which, the deceased lost his life, who was aged about only 23 years at the time of accident and therefore, a FIR came to be registered as against the appellant. Further, the compensation awarded by the tribunal is already on the lower side, which does not require any further modification. Accordingly, he prayed for dismissal of the appeal.

5. Heard learned counsel for the appellant and the learned counsel for the respondents and perused the material documents placed on record.

6. Admittedly, it is a case of head on collision and for the very same accident, two claim petitions came to be filed, one by the LR's of the deceased and the other by the owner cum driver of the offending vehicle. The present appeal has been filed by the owner cum driver of the offending vehicle, as against the award of compensation relating to the death of the deceased. It is



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the claim of the appellant that he had also filed a claim petition as against the deceased and his LR's in MCOP.No.1120 of 2017 on the file of the Special Sub Judge, Motor Accident Claims Tribunal, Coimbatore, in which, the Tribunal arrived a conclusion that the negligence was on the part of the deceased and the entire liability was fixed on the LR's of the deceased.

7. Though the respondents herein have not challenged the order passed in the aforesaid petition, in which compensation was awarded to the appellant herein, however, it is to be pointed out that the compensation aforesaid was in relation to the injuries suffered by the appellant herein, while in the present case, the compensation awarded is in regard to the death of the deceased.

8. The argument advanced on behalf of the appellant is only with regard to the non-filing of any appeal by the LR's of the deceased in the claim petition filed by him, but the non-filing of an appeal in relation to award would not have any detrimental effect on the award, which has been passed in favour of the LR's of the deceased in the present petition. It is to be pointed out that the present claim is on account of the fact that the deceased Rajagopal lost his life



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in the above said accident in which the rash and negligent driving had occurred on account of the negligence of the appellant herein. However, the said finding recorded by the Tribunal has not been put in issue. That being the case, when the finding with regard to the negligence and liability has not been put in issue by the appellant, the fact that no appeal has been filed against the compensation awarded in the claim petition filed by the appellant by the LRs of the deceased would not have any impact in the award of compensation of Rs.7,29,000/- awarded by the Tribunal in favour of the respondents. Hence, this Court is not inclined to interfere with the same.

9. Insofar as the award of compensation under various heads is concerned, a careful perusal of the impugned award reveals that the compensation awarded under each head is just and reasonable and no interference is warranted with the award of compensation, as the same is in terms of the ratio laid down by the Hon'ble Apex Court.

10. For the reasons aforesaid, this appeal stands dismissed. The appellant is directed to deposit the entire compensation as awarded by the Tribunal to the credit of MCOP.No.602 of 2015 along with interest at the rate



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of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount, if any, already deposited, within a period of eight weeks (8) from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the said amount apportioned to the major claimants/respondents directly to the bank account of the major claimants/respondents through RTGS within a period of two (2) weeks thereafter. Insofar as the apportionment of compensation in favour of the minor is concerned, the Tribunal is directed to invest the same in an interest bearing fixed deposit initially for a period of three years to be renewed till she attain majority and the quarterly interest accrued thereon shall be paid to the 1st claimant for being used for the welfare of the minor by the guardian. No costs. Consequently, the connected Miscellaneous petition is closed.

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Index	: Yes / No
Speaking Order	: Yes / No
Neutral Citation Case	: Yes / No



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M.DHANDAPANI, J.

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To

- 1.The Motor Accidents Claims Tribunal / IV Additional District Judge,
Coimbatore.
- 2.The Section Officer, V.R. Section, High Court, Madras.

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