



C.M.A.No.89 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 11.01.2023	Pronounced on 16.02.2023
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.89 of 2023
and
W.M.P.No.712 of 2023

United India Insurance Company Ltd.,
No.19, Andiappa Gramani Street,
Royapuram, Chennai – 600 013.

... Appellant

Vs.

Sagadevan (Died)

1.Neela
2.Saravana
3.Sala @ Salammal
4.Sathiya
5.Murugesan
6.Royal Sundaram Allience Insurance Co., Ltd.,
1st Floor, No.11, Nachiappan Street,
Behind Bus Stand,
Erode – 638 001.
7.M.Anees

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the Award passed in the above M.C.O.P.No.34 of 2014 dated 30.07.2014



C.M.A.No.89 of 2023

on the file of the Motor Accident Claims Tribunal (Special District Judge),
Dharmapuri.

For Appellant : Mrs.I.Malar

For Respondents : No appearance

J U D G M E N T

The Appeal has been filed to set aside the Award passed in M.C.O.P.No.34 of 2014 dated 30.07.2014 on the file of the Motor Accident Claims Tribunal (Special District Judge), Dharmapuri.

2. The insurance Company is the appellant herein. Challenging the award granted in M.C.O.P.No.34 of 2014, this appeal is filed by the insurance Company on the point of negligence as well as on quantum.

3. The respondents 1 to 5 are the legal representatives of the deceased Sagadevan, and along with others have filed a petition. Pending M.C.O.P, the first claim petitioner/Sagadevan died and petitioners 3 to 5 are brought on record.



C.M.A.No.89 of 2023

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4. The deceased Murugan is said to have been working as Sub-Contractor in the Team Lease which undertakes the work of L & T Limited. The deceased was involved in patrolling work. He was standing in front of a parked lorry. As per the version of PW2/the occurrence witness, while the said Murugan (deceased) was standing in front of a parked lorry, another lorry came from behind, dashed the parked lorry and the parked lorry moved ahead and crushed the said Murugan (deceased).

5. In the counter affidavit filed by the first respondent before the Tribunal, it was contended that the lorry was parked in the middle of the road without any indicator. Therefore, the negligence should be fixed on the part of the parked lorry for parking the vehicle in the middle of the road instead of extreme side of the road. In the counter affidavit filed by the third respondent/insurance Company, it is stated that the vehicle was parked on the extreme left hand side of the road however, the vehicle belong to the first respondent came in a rash and negligent manner, dashed from behind on the parked vehicle and hence, the negligence should be fixed upon the first respondent's vehicle.

6. It appears from the record that Ex.P2/FIR and other materials, the



C.M.A.No.89 of 2023

vehicle belonging to the third respondent (before Tribunal) bearing Registration No.TN-20-BC-1402 was parked in the middle of the road and the same as reflected in Ex.R1/Rough Sketch and therefore, the trial Court has come to the conclusion that if the third respondent (before Tribunal) has parked his vehicle on the left hand side of the edge of the road, the accident could have been avoided or if the vehicle was parked on the safer area, the accident could have been avoided. Since he has parked the vehicle on the middle of the road, the negligence has to be fixed upon him.

7. Taking into consideration the fact that FIR was registered against the driver of the first respondent and also taking note of the fact that the vehicle is parked in the middle of the road without any indicator, the Tribunal has rightly come to the conclusion that both the drivers belonging to the first and third respondents (before Tribunal) are equally and jointly accountable for the accident and accordingly, fixed the contributory negligence on each of them at 50 : 50 ratio and the said finding of the Tribunal appears to be just and fair and it does not warrant any interference at this appellate stage.

8. On the quantum of compensation, I find that, for the boy who was



C.M.A.No.89 of 2023

aged about 28 years/bachelor, correct multiplier and the income has also been fixed and the future prospects has also been considered. Hence, I find that the quantum of compensation awarded by the Tribunal for a 28 years boy, who was working as a Sub-Contractor in L & T Limited, appears to be just and fair and hence, on both the plea of negligence and quantum, I find that the appellant has not made out a case for interference with the award passed by the Tribunal and hence, the same is hereby rejected.

9. In fine, the civil miscellaneous appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

16.02.2023

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

Motor Accident Claims Tribunal (Special District Judge),
Dharmapuri.

RMT.TEEKAA RAMAN.J,

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C.M.A.No.89 of 2023

**Pre-delivery Judgment made in
C.M.A.No.89 of 2023**

Dated: 16.02.2023