



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.11.2023

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2996 of 2018

M/s.Royal Sundaram Alliance Insurance Co. Ltd.,
Subramaniam Building,
II Floor, No.1, Club House Road,
Anna Salai, Chennai-2.

... Appellant

Vs.

1. Rajeshwari
2. Kalamani
3. Sathiyaseelan
4. Chinnaya Gounder

(4th respondent died. Respondents 1 to 3 who are already on record are recorded as legal heirs of the deceased R4 as per the memo dated 19.06.2023 and vide order dated 19.06.2023 made in CMA.No.2996 of 2018 and CMP. No.22702/2018 by this Court)

5. Selvakumar

... Respondents

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988, to set aside the decree and judgment dated 30.11.2016 in MCOP. No.1632 of 2014 on the file of the Motor Accident Claims Tribunal, Second Additional District & Sessions Court, Tiruppur.

For Appellant : Mr.E.Rajadurai
For M.B.Gopalan Asst.

For Respondents : Mr.Ma.Pa.Thangavel RR1 to 3

**J U D G M E N T**

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This Civil Miscellaneous Appeal has been filed against the decree and judgment dated 07.10.2017 in MCOP. No.1632 of 2014 on the file of the Motor Accident Claims Tribunal, Second Additional District & Sessions Court, Tiruppur.

2. It is the case of the claimant that on 16.10.2014 at about 6.00 pm. When the deceased was riding a two wheeler bearing Reg. No.TN 42 B 4398, at that time, the car bearing Reg. No.TN 42 A 0556, driven by its driver, in a rash and negligent manner, dashed against the deceased. Therefore, he sustained grievous injuries and admitted in the hospital, where he died on 17.10.2014. Hence, the dependents of the deceased, who is the wife and sons, have filed a Claim Petition before the Motor Accident Claims Tribunal, against the owner and insurer of the motor cycle, claiming Rs.30,00,000/- as compensation under various heads.

3. During the trial before the Tribunal, on the side of the claimants, there were two witnesses examined and marked 4 documents viz., Exs.P1 to P4. On the side of the insurance company, one witness was examined and two documents were marked.



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4. The Tribunal, considering the pleadings, oral and documentary evidence, allowed the petition in part and awarded a sum of Rs.12,34,000/- as compensation to the claimants payable by the owner of the car and its insurer jointly or severally. Questioning negligence, the appellant insurance company/insurer of the car has filed this appeal before this Court.

5. The learned counsel for the appellant submitted that the Tribunal has failed to appreciate that the deceased had driven his motorcycle in a rash and negligent manner and hit against the car. Without considering the said fact, the Tribunal has fixed the entire liability as against the appellant and owner of the car, which is not sustainable. Further, the quantum of compensation awarded is highly excessive. Hence, the learned counsel prays that this Court may set aside the award passed by the Tribunal and allow this petition.

6. The learned counsel appearing for the claimants submitted that after examining the witnesses and considering the materials, the Tribunal has rightly awarded compensation to the claimants, which does not



warrant any interference.

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7. Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

8. On perusal of the award passed by the Motor Accident Claims Tribunal, it is seen that the accident has not been disputed. The only disputed is whether the negligence fixed on the appellant is right or not. Though it was proved before the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the car. The PW2, who is the eyewitness to the occurrence, stated that the deceased was driving his motorcycle on the left side of the road, at the same, a car driven by the driver, in a rash and negligent manner and dashed against the deceased. Whereas RW1 has stated that the deceased was driving his motorcycle in a wrong side and dashed against the car and sustained injuries. The Tribunal, has taken into consideration the evidence of PW1, passed award. PW2 is the eyewitness to the occurrence and RW1, who is the officer of the insurance company, is not an eyewitness to the occurrence. Therefore, the Tribunal has fixed liability on the insurance company, which was perfectly in order and the same need not any



interference. The Tribunal has elaborately discussed the issue and rightly come to the conclusion and the compensation awarded to the claimants are just and reasonable. In view of the above, this Court do not find any error in the award passed by the Tribunal and there is no merit in the appeal.

9. In the result, the Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal is confirmed. No costs. The appellant/insurance company and the 5th respondent/owner of the care are jointly and severally liable to pay the compensation to the claimants. The amount shall be deposited before the Tribunal within a period of four weeks from the date of receipt of a copy of this order. Upon receipt of such payment, the claimants are permitted to withdraw the same.

03.011.2023

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Index : yes/no

Internet : yes/no

Speaking Order/Non-Speaking Order

To

The Motor Accident Claims Tribunal,

Second Additional District & Sessions Court, Tiruppur.



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