



C.M.A.No.4559 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.4559 of 2019

and

C.M.P.No.26663 of 2019

K.Kannan

... Appellant

Vs.

1.K.Jayakodi

2.K.Kuppusamy

3.K.Sathiyakala

4.E.Mohanaraman

... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 21.07.2016 passed in M.C.O.P.No.3200 of 2012 on the file of the Motor Accident Claims Tribunal (Principal District Judge) at Cuddalore.

For Appellant : Mr.D.Baskar

For Respondents : No appearance

JUDGEMENT

Questioning the liability fixed by the Motor Accident Claims Tribunal (Principal District Judge) at Cuddalore in M.C.O.P.No.3200 of



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2012 dated 21.07.2016, the appellant/owner of the offending vehicle has preferred the present appeal.

2. The respondents 1 to 3 are the wife, son and daughter of the deceased P.Kasinathan. On 23.11.2010 at about 7.00 p.m., the deceased was standing at his extreme left hand side of the Valavanur to Madagadipattu road. At that time, the first respondent's motorcycle bearing Regn.No.TN-22-Y-4483 came from west to east direction, driven by the second respondent at a great speed in a rash and negligent manner, without making any horn, without following the traffic rules and regulations and hit against the deceased. As a result of which, the deceased sustained grievous injuries and multiple fractures all over the body and head. He was immediately taken to the Government Hospital, Mundiampakkam and he was reported as dead. Therefore, the claimants who are the legal heirs of the deceased filed a claim petition claiming a sum of Rs.15,00,000/- as compensation for the death of the deceased.

3. The second respondent was called absent and set *ex-parte*. Before the Tribunal, the claimants examined four witnesses viz., P.W.1 to



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P.W.4 and marked 2 documents viz., Ex.P.1 and Ex.P.2. On the side of first respondent, he examined himself as R.W.1 and marked 1 document viz., Ex.R.1. After adjudication, the Tribunal awarded compensation in a sum of Rs.7,50,000/- under various heads, directing the respondents to pay the said compensation to the claimants. Aggrieved by the same, the first respondent/owner of the offending vehicle has preferred the present appeal.

4. The learned counsel appearing for the appellant submitted that, the appellant exchanged the vehicle involved in the accident in the year 2001 and purchased a new vehicle, however, the dealer who purchased the vehicle from the appellant not mutated the records before the Road Transport Department. Hence, without impleading the purchaser of the vehicle, the claimants have filed claim petition by impleading the appellant, which is wholly unsustainable. Accordingly, he prays for allowing the appeal.

5. Though name of the respondents were printed in the cause list, however, no one appeared on behalf of the respondents. Considering the



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pendency of the appeal, this Court is inclined to dispose of this appeal based on the materials available on record.

6. The factum and manner of the accident is not in dispute. Therefore, this Court is not entering into the said aspect. The only grievance of the appellant is with regard to the fixation of liability as against him. P.W.2, who is an eye-witness to the occurrence had deposed that the accident had happened due to the rash and negligent driving by the driver of the motorcycle, fourth respondent herein. It is seen that the Ex.P.1/FIR has been registered against the driver of the motorcycle. In order to rebut the evidence of the claimants, the appellant had examined himself R.W.1, who had deposed that he is not the owner of the vehicle and he already sold the motorcycle to one Tamil Nadu Motors in the year 2001, therefore, he is not liable to pay any compensation to the claimants. Though the appellant had claimed that he sold the motorcycle in the year 2001, however, he had not taken any effective steps to mutate the revenue records nearly for a period of nine years and it is seen from the records that, on the date of accident, the motorcycle was in the name of the appellant. Therefore, the Tribunal has held that the appellant was the



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owner of the motorcycle at the time of accident and rightly fixed the liability on the appellant, which cannot be said to be erroneous. Hence, this Court is not inclined to interfere with the award passed by the Tribunal.

7. Accordingly, the Civil Miscellaneous Appeal is dismissed and the Judgment and Decree passed by the Motor Accident Claims Tribunal (Principal District Judge) at Cuddalore in M.C.O.P.No.3200 of 2012 dated 21.07.2016 is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

29.11.2023

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To

1.The Motor Accident Claims Tribunal (Principal District Judge) at Cuddalore.

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



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M.DHANDAPANI, J.,

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