



C.M.A(MD)No.120 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.03.2023**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.120 of 2017

and

C.M.P(MD)No.1261 of 2017

R.Ramu ... Appellant/1st Respondent

Vs.

1.Senthamizh Selvi

2.Minor.Abilash

3.Minor.Varsha ... Respondents/Petitioners

4.ICICI Lambord General Insurance Company Ltd.,
ICICI Lambord House,
414, Veerasevakar Mark,
Near Siththi Vinayagar Kovil,
Prabadevi, Mumbai-400 025. ... Respondent/2nd Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the fair and decretal order holding that “the amount of compensation paid by the 4th respondent shall be recovered from the appellant” passed in M.C.O.P.No.184 of 2012 on the file of the Motor Accident Claims Tribunal, Special District Court, Thanjavur, dated 14.12.2015.

For Appellant : Mr.S.Vellaichamy



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For R1-R3 : Mr.K.M.Karunakaran

For R4 : No Appearance

JUDGEMENT

The present appeal has been filed by the owner of the vehicle challenging the fixation of liability upon him in M.C.O.P.No.184 of 2012 on the file of Motor Accident Claims Tribunal, Thanjavur.

2. According to the claimants, the deceased person was self-employed and he was earning a sum of Rs.15,000/- per month. While he was proceeding on a bicycle on 28.12.2011, the road roller belonging to the 1st respondent and insured with the 2nd respondent moved suddenly in a rash and negligent manner and hit against the deceased person. The deceased sustained grievous injuries and he was admitted to the hospital where he passed away. According to the claimants, the accident had happened due to the rash and negligent driving of the driver of the road roller.

3. The owner of the offending vehicle had filed a counter contending that the driver of the vehicle had not driven the vehicle in a rash and negligent manner. He has further contended that being a road



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roller, it cannot move in a great speed either forward or backward or in reverse direction and hence, no kind of negligence on the part of the driver could be attributed with.

4. The 2nd respondent insurance company had filed a counter contending that the vehicle could move only very slowly and the deceased without looking into the warning sign board had entered into the construction area and he himself had invited the said accident.

5. The tribunal after considering the oral and documentary evidence on either side has arrived at a finding that the accident has happened only due to the rash and negligent driving of the offending vehicle belonging to the 1st respondent. However, it has proceeded to hold that the road roller did not have any registration certificate or the driver had any driving license. Therefore, the tribunal had directed the insurance company to pay the amount and recover the same from the owner of the vehicle. This award is under challenge in the present appeal.

6. The learned counsel appearing for the appellant had contended that this vehicle does not require any registration whatsoever and without there being a registration, the insurance company has come forward to



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insure the vehicle and also renewed it on various occasions. He further pointed out as per Section 28 of the Motor Vehicles Act, the State Government is empowered to make rules relating to the non-applicability of the provisions of driving license to road roller. He further pointed out Rule 6 of the Tamil Nadu Motor Vehicles Rules which clearly points out that the driver of a road roller does not require a driving license and the same is exempted and Section 3 (1) is not applicable to road roller.

7. Though notice has been served, there is no appearance either in person or through counsel by the insurance company.

8. I have carefully considered the submissions made on either side.

9. Admittedly, the vehicle is involved in laying road, which is said to be a road roller. Whether the vehicle would require registration or not, could not be found out from the records. However, it could be seen from the insurance policy issued by the 2nd respondent that they have been continuously renewing the insurance policy with the registration number mentioned as nil. Therefore, it is clear that the said vehicle does not require any registration under the Motor Vehicles Act. That apart, even as per the admitted case of the claimants, the vehicle is a road roller



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involved in the construction of roads. As per Rule 6 of Tamil Nadu Motor Vehicle Rules, Section 3 relating to driving licenses is not applicable to road rollers. Therefore, the driver of the road roller does not require a driving license to drive the same. Therefore, the finding of the tribunal that the registration certificate and the driving license have not been produced by the owner of the vehicle is not legally sustainable.

10. In view of the above said facts, the award of the tribunal is modified to the effect that clause (3) of the award is hereby set aside and it is modified to the effect that the respondents 1 and 2 in M.C.O.P.No. 184 of 2012 are jointly and severally liable to pay the compensation. To the above said extent, the Civil Miscellaneous Appeal stands allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

21.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

- 1.The Motor Accident Claims Tribunal,
Special District Court,
Thanjavur.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR ,J.

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Order made in
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