



C.M.A.(MD).No.1134 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1134 of 2018

Noor Mohamed

... Appellant/ Respondent

-VS-

1. Jeevarekha
2. Minor Chandhru
3. Minor Kathiravan
4. Polappan
5. Veerammal

... Respondents/ Petitioners

(The minor respondents 2 and 3/
Petitioners 2 and 3 represented through
their mother and guardian, the 1st respondent
herein/ 1st petitioner Jeevarekha)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the order and decretal order passed by the learned Motor Accident Claim Tribunal/Principal District Judge, Dindugal District, Dindigul, made in M.C.O.P.No.158 of 2014, dated 19.07.2018.

For Appellant : Mr.R.Thangapandian

For Respondents : Mr.C.K.M.Appaji
For R1 to R3
: R4- died



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J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the owner of the offending vehicle challenging the award passed by the Motor Accidents Claims Tribunal/Principal District Judge, Dindugal District, Dindigul, made in M.C.O.P.No.158 of 2014 primarily on the ground of non-involvement of the vehicle.

2. According to the claimants, the deceased was driving in a TVS XL and while he was riding the same at about 07.30 p.m on 13.11.2012, a Suzuki Motor Bike owned and driven by the first respondent came from the opposite direction in a rash and negligent manner and dashed against the TVS XL. Due to the said impact, the deceased sustained grievous injuries and later, he passed away. The wife, minor children and mother of the deceased have filed a claim petition seeking compensation for a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only)

3. The appellant/respondent, who is the owner of the offending vehicle has filed a counter contending that his vehicle was not at all involved in the said accident and prior to the accident, the vehicle was seized by the



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Oddanchathram Police during their routine vehicle check up and the vehicle was retained by the police officials for production of the original document. Due to some extraneous pressure, the police officials have recorded the involvement of his vehicle.

4. The Tribunal, after considering the oral and documentary evidence, arrived at a finding that the wife of the deceased had registered the FIR and there is no mentioning about the vehicle number. The police officials, after investigation, has also filed a referred charge sheet. Though the owner of the vehicle has taken as stand that the vehicle was seized by the police officials two days prior to the accident and it was in the custody of the police officials on the relevant day, he was not able to establish the same. Further, P.W.2 has been examined as occurrence witness and he has not been discredited during cross examination by the appellant/respondent. Therefore, the Tribunal has arrived at a finding that the vehicle belonging to the appellant/respondent was involved in the said accident.

5. Thereafter, the Tribunal fixed the notional income at Rs.6,000/- (Rupees Six Thousand only) per month and added 40% towards future prospects and arrived at the annul income Rs.1,00,800/- (Rupees One Lakhs

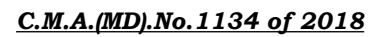


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and Eight Hundred only) and 1/4th of the amount was deducted and the annual income was arrived at Rs.75,600/- (Rupees Seventy Five Thousand and Six Hundred only) and applying multiplier of “17”, the Tribunal fixed the award amount under the head of loss of dependency at Rs.12,85,200/- (Rupees Twelve Lakhs Eighty Five Thousand and Two Hundred only) and under the conventional heads, a sum of Rs.40,000/- (Rupees Forty Thousand only) was awarded towards loss of consortium, a sum of Rs.15,000/- (Rupees Fifteen Thousand only) was awarded towards loss of estate and a sum of Rs.15,000/- (Rupees Fifteen Thousand only) was awarded towards funeral expenses and the total compensation of a sum of Rs.13,55,200/- (Rupees Thirteen Thousand Fifty Five Thousand and Two Hundred only) was awarded. This award is under challenge in the present appeal filed by the owner of the offending vehicle.

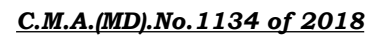
6. According to the learned counsel appearing for the appellant, the accident is said to have taken place at 07.30. p.m., on 13.11.2012. However, an FIR was registered only on 14.11.2012. In the FIR, the registration number of the offending vehicle was not mentioned and it was specifically mentioned as an accidental fault. He further contended that the final report was filed under Ex.R.10, which was a referred charge sheet. Both the facts would



7. Per contra, the learned counsel appearing for the respondents had contended that the involvement of the vehicle has been substantiated by examining P.W.2, who is the occurrence witness and it has not been refuted during cross examination. Hence, he prayed for confirming the findings passed by the Tribunal.

8. I have carefully considered the submissions made by the learned counsel on either side and perused the material on records.

9. The primary ground on which the present appeal has been filed by the owner of the offending vehicle that it was not at all involved in the said accident said to have taken place on 13.11.2012. According to the appellant, his vehicle was seized two days back by Oddanchathram Police Station and



10. As far as the quantum is concerned, the Tribunal has taken into consideration the notional income at Rs.6,000/- (Rupees Six Thousand only) per month. The accident has taken place in the year 2012 and the Tribunal is bound to follow the judgment of the Hon'ble Supreme Court in fixing the quantum of compensation under various heads. This Court does not find any reason to interfere with the award of the Tribunal and the appeal lacks merit.



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11. Accordingly, this Civil Miscellaneous Appeals stands dismissed.

There shall be no order as to costs.

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

1. The Motor Accident Claim Tribunal/
Principal District Judge, Dindugal District,
Dindigul.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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