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C.M.A.No.3527 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3527 of 2021

1.P.S.K.Lakshmi Bai
2.P.K.Vishnu
3.P.K.Aravind

... Appellants

Vs.

1.V.M.Ganu Sah
2.R.Iswariya Bai
3.The Divisional Manager,
National Insurance Co. Ltd.,
Vellore.

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow this appeal and be pleased to allow the claim in M.C.O.P.No.134 of 2014 dated 31.07.2019 on the file of Motor Accidents Claims Tribunal (Subordinate Judge), Arakkonam as prayed for with interest and cost.

For Appellants : Mr.K.Varadha Kamaraj
For Respondents : R1 – Disd. (steps due)
R2 – No Appearance
Mrs.R.Sreevidhya for R3

J U D G M E N T



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This appeal has been filed by the appellants/ claimants challenging the judgment and decree passed in M.C.O.P.No.134 of 2014 dated 31.07.2019 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Arakkonam.

2.The learned counsel appearing for the appellants submitted that the appellants are the legal heirs of Kandasamy Sah @ Ravi Sah who died in a road accident. Their claim petition was rejected on the ground that Kandasamy Sah was responsible for the accident and hence, they are not entitled for any claim. The learned counsel further submitted that on 02.03.2014, the subject vehicle was driven by one Ramesh Sah, however, the Tribunal rejected the claim petition as if Kandasamy Sah drove the vehicle and applied sudden brake, due to which, the vehicle hit on the culvert wall due to poor condition of the road and stuck of steering and hence, the accident occurred.

3.The learned counsel appearing for the appellants further submitted that the first appellant is the co-passenger who travelled along with her husband and the subject vehicle is Toyato Qualis and the same was driven by one Ramesh Sah and they after worshiping Lord Balaji at Tirupathy returned to Tiruttani. At that time, the



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accident happened. The learned counsel further submitted that in order to prove the case, the first appellant examined herself as P.W.1 and marked Exhibits Ex.P.1 to Ex.P8. On the side of the respondents, R.W.1 was examined and exhibits Ex.R1 to Ex.R3 were marked. The Tribunal based on the submission made by the Insurance company that one Rathna Bai has filed a petition claiming compensation for the death of her husband in the Additional District Court, Kancheepuram, wherein she took a stand that the vehicle was driven by Kandasamy Sah @ Ravi Sah/ the first appellant's husband in a rash and negligent manner, due to which the accident occurred, dismissed the claim petition, which is not sustainable one.

4.The learned counsel appearing for the appellants further submitted that though F.I.R. was registered as against the first appellant's husband, F.I.R. is not an conclusive proof and it is only information passed on to the law enforcing agency. The learned counsel further submitted that the first appellant is the eye witness and no eye witness was examined to disprove her statement. In support of his contentions, the learned counsel relied upon the decision of the Hon'ble Apex Court in Civil Appeal No.6151 of 2021 (arising out of S.L.P.(C) No.4705 of 2019) dated 01.10.2021 [National Insurance



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Company Limited Vs. Chamundeswari and Others] and the decision of the Hon'ble Division Bench of this Court reported in 2021 (1) TN MAC 535 [T.Maheswari and others Vs. C.Venkatesan and others].

5.Per contra, the learned counsel appearing for the third respondent Insurance Company submitted that the Tribunal after considering all the factual aspects rightly dismissed the claim petition, which warrants no interference.

6.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the third respondent and perused the materials available on record.

7.Admittedly, the first appellant and other passengers after worshipping Lord Balaji at Tirupathy were returning to Tiruttani in a Toyato Qualis car. Though the first appellant claim that the subject vehicle was driven by one Ramesh Sah, F.I.R. has been registered as against the first appellant's husband namely, Kandasamy Sah @ Ravi Sah. Apart from that, Ex.R2 – M.C.O.P.No.541 of 2014 order copy was produced before the Tribunal to substantiate that one Rathna Bai has filed a petition claiming compensation for the death of her husband in



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the Additional District Court, Kancheepuram, wherein she took a stand that the vehicle was driven by Kandasamy Sah @ Ravi Sah and the contents of Ex.R2 was not disputed before the Tribunal. When such evidence was available, the Tribunal rightly dismissed the claim petition filed by the appellants, which warrants no interference.

8.The decisions relied upon by the learned counsel appearing for the appellants are not applicable to the present case on hand, since in those decisions it was held that F.I.R. is not conclusive proof. In the present case, the claim petition was dismissed not only based on F.I.R., but also based on Ex.R2 judicial proceedings.

9.The civil miscellaneous appeal is dismissed. The judgment and decree passed in M.C.O.P.No.134 of 2014, dated 31.07.2019 by the Motor Accidents Claims Tribunal (Subordinate Judge), Arakkonam, is confirmed. No costs.

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

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1.The Motor Accidents Claims Tribunal
(Subordinate Judge), Arakkonam.

M.DHANDAPANI,J.
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