



C.M.A.No.3158 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3158 of 2019
and C.M.P.No.17936 of 2018

The Divisional Manager,
New India Insurance Co. Ltd.,
No.14, David Nagar Complex,
23 Road, Koranadu,
Mayiladuthurai, Nagapattinam.

...Appellant

Vs.

1.Rani
2.Vasuki
3.Rayadurai
4.Ranjitha

5.M.Raghmathunia

...Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.241 of 2014, dated 28.11.2018 on the file of the Motor Accidents Claims Tribunal, Sub Court, Kallakurichi - Villupuram.

For Appellant : Mr.J.Chandran



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For Respondents : Mr.R.Nalliyappan for R1 to R4
R5 – No appearance

J U D G M E N T

This appeal is filed by the appellant challenging the judgment and decree passed by the Motor Accidents Claims Tribunal, Sub Court, Kallakurichi - Villupuram in M.C.O.P.No.241 of 2014, dated 28.11.2018.

2.For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

3.The petitioners are the claimants, the first respondent is the owner of the vehicle and the second respondent is the Insurance Company before the Tribunal.

4.The brief facts of the case are as follows:

On 29.06.2014 at about 3.30 p.m., while the deceased Jothilingam was riding his two wheeler bearing Registration No.TN32 AZ 2607 proceeded towards Melur to Kallakurichi, near Indhili Veterinary Hospital, Salem to Kallakurichi NH, the first respondent's driver drove



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the vehicle bearing Registration No.TN 74 Y 0929 in a rash and negligent manner and dashed against the deceased vehicle and caused the accident. As a result, the deceased died on the spot. A case was registered against the driver of the first respondent in Crime No.181/2014 under Sections 279, 304(A) IPC by S.H.O., Chinna Salem. The petitioners filed a claim petition before the Tribunal in M.C.O.P.No.241 of 2014, the Tribunal awarded a sum of Rs.10,50,700/- as compensation. Aggrieved by the same, the present appeal has been filed.

5.Learned counsel appearing for the appellant submitted that the fifth respondent intended to renew the insurance policy, issued a cheque dated 21.06.2014 for the vehicle bearing Registration No.TN 74/Y-0929 for the period from 23.06.2014 to 22.06.2015 has been given to the person by name Ms.Manjula, when the said cheque was presented before Axis Bank, Athur Branch, they had stated that the account has been closed and returned the cheque. The said intimation has been communicated to the fifth respondent on 08.07.2014 and no amount has



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been received from the fifth respondent as premium for the aforesaid vehicle and hence, the compensation awarded by the Tribunal on the appellant Insurance Company is not sustainable. Hence, he prayed for appropriate orders.

6.Per contra, learned counsel appearing for the respondents 1 to 4 submitted that the accident occurred only due to the rash and negligent driving by the driver of the fifth respondent vehicle bearing Registration No.TN 74 Y 0929 and as a result, the deceased died on the spot, the said vehicle is owned by the fifth respondent and insured with the appellant Insurance Company. Hence, both the appellant Insurance Company and the fifth respondent are liable to pay the compensation. Hence, he prayed for dismissal of the appeal.

7.Heard learned counsel appearing for the appellant as well as the learned counsel appearing for the respondents 1 to 4 and perused the materials available on record.



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8.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only questioning the liability. Hence, there is no need for any discussion with regard to negligence.

9.Before the Tribunal, the third petitioner was examined as PW1 and on the side of the petitioners, 13 documents were marked as Exs.P1 to P13. On the side of the respondents, Mr.Thangadurai was examined as RW1 and 5 documents were marked as Exs.R1 to R5.

10.On perusal of the records, it is seen that the fifth respondent issued a cheque dated 21.06.2014 for a value of Rs.22,380/- for the vehicle TN.74/Y-0929 for the period from 23.06.2014 to 22.06.2015 and the said cheque was presented before Axis Bank on 25.06.2014. Admittedly, on 08.07.2014, the appellant Insurance Company sent a communication to the fifth respondent stating that the account has been closed, but the accident occurred on 29.06.2014 i.e., prior to the intimation.



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11.It is also seen that the Tribunal in its finding has relied upon the judgments in the case of *New India Assurance Co. Ltd., vs. Yedlepaga Ramudu and another* reported in *2012 ACJ 542* and in the case of *New India Assurance Co. Ltd., vs. V.Bommi and others* in *C.M.A.No.1851 of 2014 dated 12.06.2009*, come to a conclusion that the Insurance Company was liable to pay the compensation to the claimants and directed the Insurance Company to recover the same from the owner of the vehicle thereafter.

12.Considering the facts and circumstance of the case and the submission made by the learned counsel on either side, this Court is not inclined to accept the contention made by the appellant Insurance Company and the same is rejected. Therefore, this Court does not find any grounds to interfere with the award passed by the Tribunal. The compensation awarded by the Tribunal is very reasonable and it does not warrant interference of this Court.



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13 .The judgment and decree dated 28.11.2018 passed by the Motor Accidents Claims Tribunal/Sub Court, Kallakurichi, Villupuram in M.C.O.P.No.241 of 2014, is confirmed.

14.The appellant Insurance Company is directed to deposit the compensation awarded by the Tribunal, less the amount already deposited, if not deposited earlier, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of this judgment. The Pay and Recovery awarded by the Tribunal is confirmed. The other directions issued by the Tribunal with regard to the mode of payment of compensation remain unaltered.

15.In the result, the Civil Miscellaneous Appeal is dismissed.
No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

- 1.The Motor Accidents Claims Tribunal,
Sub Court, Kallakurichi – Villupuram.
- 2.The Section Officer,
VR Section,
High Court of Madras, Chennai – 600 104.

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