



C.M.A.No.1941 of 2021

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1941 of 2021
and C.M.P.No.10448 of 2021

Shriram General Insurance Co. Ltd.,
Rep. by its Branch Manager,
Office at No.E-8, RICO Industrial Area,
Sitapura,
Jaipur, Rajasthan.

...Appellant

Vs.

1.Theyivanai
2.Minor Atchaya
3.Minor Akalya
(*Respondents 2 & 3 are Minor Rep. by*
1st Respondent/next friend Mother)
4.Rajesh Kannan

...Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 22.02.2021 made in M.C.O.P.No.211 of 2018, on the file of the Motor Accident Claims Tribunal, (District Court), Karaikal.



C.M.A.No.1941 of 2021

For Appellant : Mr.S.Dhakshnamoorthy

For Respondents : Mr.K.S.Karthik Raja for R1 to R3

R4 – NDW vide order dated
06.02.2024

J U D G M E N T

This appeal has been filed by the appellant insurance company against the judgment and decree passed by the Motor Accident Claims Tribunal, (District Court), Karaikal in M.C.O.P.No.211 of 2018 dated 22.02.2021.

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:



C.M.A.No.1941 of 2021

WEB COPY

On 25.01.2018, at about 12.30 hours, when the deceased was riding his motorcycle bearing Registration No.TN-82-B-5689 at Kurumbagaram Pandaravadai Main Road, at the time, the first respondent drove his vehicle bearing Registration No.PY-02-J-6226 in the same direction fastly, rashly, negligently and hit on the deceased motorcycle and caused grave head injuries. Immediately, the injured was taken to the General Hospital, Karaikal and after taking initial treatment, he was referred to IGM&RI, Puducherry, because of the grievous injuries, he died. The claimants filed a claim petition before the Tribunal in M.C.O.P.No.211 of 2018, the Tribunal has awarded a sum of Rs.23,72,380/- as compensation. Challenging the same, the present appeal has been filed.

5.Learned counsel appearing for the appellant submitted that the deceased was not having a valid driving license and there was an alcohol contained in the blood of the deceased at the time of the accident, without considering the same, the Tribunal has fastened the liability on



C.M.A.No.1941 of 2021

the appellant Insurance Company is not sustainable. Hence, he prayed for appropriate orders.

6.Per contra, learned counsel appearing for the respondents/claimants submitted that the contention of the appellant is that there was an alcohol contained in the blood was considered by the Tribunal and rejected the same. Hence, he prayed to dismiss the appeal.

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

8.The accident and the manner in which the accident happened are not disputed. This appeal has been filed only with regard to negligence aspect.

9.Before the Tribunal, the first petitioner was examined as PW1, an eyewitness was examined as PW2 and on the side of the petitioners, 11 documents were marked as Exs.P1 to P11. On the side of the



C.M.A.No.1941 of 2021

Respondents, 2 witnesses were examined as RW1 & RW2 and 3 documents were marked as Exs.X1 to X3.

10.Admittedly, the deceased was riding his motorcycle bearing Registration No.TN-82-B-5689 at Kurumbagaram Pandaravadai Main Road, at the time, the first respondent drove his vehicle bearing Registration No.PY-02-J-6226 and hit on the deceased motorcycle and caused grave head injuries. Immediately, the injured was taken to the General Hospital, Karaikal and after taking initial treatment, he was referred to IGM&RI, Puducherry, because of the grievous injuries, he died. A criminal case was registered in Crime No.11/2018 for offence under Sections 279, 338 of IPC and subsequently altered to Section 304 (A) of IPC by the Police.

11.The contention raised by the learned counsel for the appellant that there was an alcohol contained in the blood of the deceased at the time of the accident, this Court is of the view that the blood contained in the body of the deceased is very meagre i.e. 0.073 g% and even if a



C.M.A.No.1941 of 2021

person may consume a cough syrup or paracetamol that may contain meagre percentage of alcohol in the medicine. Another contention raised by the appellant Insurance Company is that the deceased did not have a valid driving license at the time of the accident, it is for the appellant Insurance Company to examine the jurisdiction Regional Transport Officer to prove the same. In the absence of any witness, the claim made by this appellant Insurance Company is not sustainable and the same is rejected.

12.In view of the above, this Court does not find any ground to interfere with the award passed by the Tribunal. The compensation awarded by the Tribunal is just and reasonable and it does not warrant interference of this Court.

13.The judgment and decree dated 22.02.2021 passed by the Motor Accident Claims Tribunal (District Court, Karaikal) in M.C.O.P.No.211 of 2018 is confirmed.



C.M.A.No.1941 of 2021

WEB COPY

14.The appellant Insurance Company is directed to deposit the compensation awarded by the Tribunal, less the amount already deposited, 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 a copy of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

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

27.11.2024

Index: Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

pam

To

1.The Motor Accident Claims Tribunal
(District Court), Karaikal.

2.The Section Officer,
VR Section,
High Court of Madras, Chennai – 600 104.



WEB COPY



C.M.A.No.1941 of 2021

M.DHANDAPANI, J.

pam

C.M.A.No.1941 of 2021

27.11.2024