



Civil Miscellaneous Appeal No.2105 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.2105 of 2022

1.Thilagavathy
W/o.Late Mani

2.Sathiskumar
W/o.Late Mani

3.Janaki
W/o.Shanmugam

4.Shanmugam
S/o.Thirupathy

... Appellants

Vs.

1.I.Ranjith Kumar
S/o.Iyappan

2.The Divisional Manager,
United India Insurance Company Limited,
Katpadi Road, Vellore.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 25.01.2022 made in M.A.C.T.O.P.No.504 of 2017 on the file of the Motor Accident Claims Tribunal, III Additional District Judge, Vellore at Tirupattur.



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For Appellants : Ms.A.Subadra

For Respondents : Mr.R.Rajarajan [R1]
Mr.M.B.Raghavan [R2]

JUDGMENT

The appellants/claimants, not being satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, III Additional District Judge, Vellore at Tirupattur, in M.A.C.T.O.P.No.504 of 2017, dated 25.01.2022, have filed this appeal.

2. The claimants are the wife, son and parents of the deceased Mani. The deceased Mani was riding a two-wheeler on 29.03.2017 at Elagirimalai road to Ponneri road from east to west and at about 1.45 p.m., when the two-wheeler came near Mandalavadi Petrol Bunk, the offending vehicle was ridden by the first respondent in a rash and negligent manner and it dashed on the rear portion of the two-wheeler of the deceased. As a result, the deceased was thrown out of the vehicle and he sustained grievous injuries. Unfortunately, he succumbed to the injuries. A First Information Report came to be registered in Crime No.124 of 2017. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for compensation.

3. The Tribunal, on considering the facts and circumstances of the



case and on appreciation of oral and documentary evidence, came to a categorical conclusion that the accident had taken place due to the rash and negligent driving on the part of the offending vehicle belonging to the first respondent. Having come to such a conclusion, the Tribunal noted the fact that the offending vehicle was not insured. The second respondent insurance company is, in fact, the insurer of the vehicle belonging to the deceased.

4. The Tribunal fixed the total compensation at Rs.10,82,500/- and directed the owner of the vehicle *viz.*, first respondent to pay the entire compensation with interest at 7.5% p.a.

5. The appellants/claimants, not being satisfied with the quantum of compensation awarded by the Tribunal and also the fact that the entire liability was fastened on the first respondent, has filed this appeal.

6. Heard Ms.A.Subadra, learned counsel for appellants/claimants and Mr.R.Rajarajan, learned counsel for first respondent and Mr.M.B.Raghavan, learned counsel for second respondent.

7. This Court carefully considered the submissions made on either side and the materials available on record.



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8. This Court also carefully went through the award passed by the Tribunal.

9. In the considered view of this Court, the compensation that has been awarded by the Tribunal under various heads is reasonable and does not require the interference of this Court. The next issue is with regard to the liability that was fastened against the first respondent. Admittedly, the first respondent has not insured the vehicle and therefore, the entire liability was fastened on the first respondent. The Tribunal, on appreciation of evidence, has come to a categorical conclusion that the accident had taken place only due to the negligence on the part of the first respondent. It is not possible for this Court to assume that there was composite negligence/contributory negligence on the part of the deceased and consequently, direct the second respondent insurance company to bear a portion of the liability. Such claim made by learned counsel for appellants is too farfetched. By no stretch, the second respondent insurance company, which admittedly is the insurer of the vehicle belonging to the deceased, can be made to pay the compensation.



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10. In the light of the above discussion, the award passed by the Tribunal is confirmed and there shall be a direction to the first respondent/ owner of the vehicle to deposit the entire compensation awarded by the Tribunal with interest at 7.5% p.a. within a period of eight (8) weeks from the date of receipt of a copy of this order. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

Accordingly, this Civil Miscellaneous Appeal is disposed of with the above direction. No costs.

29.04.2024

Speaking Judgment/Non-speaking Judgment
Index : Yes/No
Neutral citation: Yes/No
gm

To
The Special Sub-Court II,
Motor Accident Claims Tribunal,
Salem.

N.ANAND VENKATESH, J.

gm



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