



C.M.A.No.1083 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.1083 of 2020

&

C.M.P.No.6873 of 2020

The Divisional Manager,
The National Insurance Company Ltd.,
D.O.No.110JN. Street,
Puducherry – 605 001.

... Appellant

Vs.

1. R.Kanaga
2. V.Vani
3. S.Vijayakumar

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 12.06.2002 made in MACTOP.No.3083 of 2014 on 07.01.2019 (Principal District Judge) Cuddalore.

For Appellant : Ms.J.Chandran

For Respondents : Not ready in notice



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JUDGMENT

Assailing the award passed in MACTOP.No.3083 of 2014 vide judgment dated 07.01.2019 on the file of the (Principal District Judge) Cuddalore, the present civil miscellaneous appeal has been filed by the appellant / Insurance company.

2. Though notice was served on the respondent, no one appeared on behalf of the respondents. Considering the period of pendency of the appeal the same is disposed of based on the materials available on record.

3. The brief facts necessary to dispose of the above appeal are as follows :-

(i) On 08.07.2015 at about 22.30 hours when the deceased was travelling as owner of the goods with empty boxes to buy vegetables in a TATA ACE vehicle belonging to the third respondent bearing Regn.No.TN 31 BA 7108 insured with the appellant / insurance company, driven by its driver in a rash and negligent manner, due to which the deceased was thrown out of the said vehicle and sustained fatal injuries. Claiming compensation in a sum of Rs.30,00,000/-, the



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respondents 1 and 2 / claimants have filed the claim petition.

4. Before the Tribunal, the claimants examined himself as P.W.1 to P.W.3 and marked twenty documents viz., Ex.P1 to Ex.P.10. On the side of the appellant / Insurance company, they examined R.W.1 and marked Ex.R1. After adjudication, the Tribunal awarded a sum of Rs.20,86,000/- as compensation in favour of the claimants.

5. The learned counsel appearing for the appellant/ insurance company submitted that, though the claimants claim that the deceased is the owner of the goods, however, even as per the F.I.R. it is clear that the one Suresh Kumar is the owner of the goods. Hence, the deceased was an unauthorised passenger in the vehicle of the third respondent. He further submits that if the deceased was the owner, he would have travelled in the cabin of the vehicle, however, without doing so, the deceased travelled in the rear side of the said vehicle. Hence, the appellant is not liable to indemnify the the claimants for the loss sustained by them due to the death of the deceased.

6. Heard the learned counsel for the appellant and perused the



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materials placed on regard.

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7. There is no quarrel that the deceased died as a result of the accident, in which, the TATA ACE belonging to the third respondent was involved. On the basis of the evidence of R.W.1 that the said accident happened due to the driver of the third respondent, the Tribunal, considering the materials placed before it has rightly come to the conclusion that it was due to the rash and negligent driving of the driver of the third respondent the accident had happened and therefore, it is the duty of the appellant / insurer of the third respondent's vehicle to compensate the respondents 1 and 2 /claimants. Therefore, on that point, no interference is warranted and the finding recorded by the Tribunal is confirmed.

8. Here again, it is seen that the Tribunal has awarded compensation, only on proper appreciation of the evidence on record and hence, the same cannot be said to be exorbitant as claimed by the respondents 1 and 2 and rather it is only in commensurate with the injuries suffered by the deceased.



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9. In view of the above discussion, this Court holds that the impugned award of the Tribunal does not warrant interference, confirming the award passed by the tribunal in MCOP.No.3086 of 2015 dated 07.01.2019 and the appellant is directed to deposit the compensation of **Rs.20,86,000/-** awarded by the tribunal to the credit of MCOP.No.3086 of 2015 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount, if any, already deposited, within a period of six weeks (6) from the date of receipt of a copy of this judgment, if not already deposited. On such deposit being made, the Tribunal is directed to transfer the said amount to the respondents 1 and 2 directly to his bank account through RTGS within a period of two (2) weeks thereafter. It is made clear that the said compensation shall be apportioned among the claimants as per the order of the Tribunal. There shall be no order as to costs in this appeal. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Speaking order / Non-speaking order
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M.DHANDAPANI, J.

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To

1. The (Principal District Judge) Cuddalore.
2. The Section Officer, V.R.Section, High Court, Madras.

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