



WEB COPY



CMA.No.1316 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.No.1316 of 2024

1. Rajakani
2. Selvakumar
3. Poongodi
4. Rajkumar

... Appellants

VS.

1. M.Prabhakaran
2. The Branch Manager,
M/s. United India Insurance Co. Ltd.,
Cathollic Centre, 924-a, Main Road,
Kovilpatti, Tuticorin - 628 501.

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 19.03.2024 in M.C.O.P.218/2022 on the file of the Motor Accident Claims Tribunal, Principal District Court, Perambalur.

For Appellants : Ms.Sithi Fathima Samt
For R2 : Mr.S.Arunkumar

J U D G M E N T

The appellants are the claimants in M.C.O.P.218/2022 on the file of the Motor Accident Claims Tribunal, Perambalur. They filed the



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claim petition under Sections 140 & 166 of the Motor Vehicles Act seeking compensation of Rs.20,00,000/- for the death of one Pichai (husband of the first claimant and father of the claimants 2 to 4) in a road accident that occurred on 11.02.2022.

2. The brief case of the appellants / claimants is as follows :

On 11.02.2022, Pichai (deceased) was riding a two-wheeler bearing Registration number TN-46-P-9424 on Chettikulam -Senjeri road. When he was nearing Ranganathapuram, another two wheeler bearing Registration number TN-46-Z-3666 came in the opposite direction and hit the two wheeler driven by Pichai (deceased), as a result of which, Pichai was thrown out of his vehicle and sustained injuries all over his body. He was immediately rushed to Government Hospital, Perambalur. However, he succumbed to injuries on 24.02.2022.

3. According to the claimants, the rash and negligent driving of the driver of the two wheeler bearing Registration number TN-46-Z-3666 was the cause of the accident and that since the said vehicle was insured with the second respondent, the United India Insurance Company



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Limited, the owner and the insurer are jointly and severally liable to pay compensation to them.

4. In the Tribunal, the owner of the vehicle remained absent and was set *exparte*. The second respondent resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

5. The Tribunal after analysing the evidence on record, fastened negligence on the part of the deceased and the driver of the two wheeler bearing Registration number TN-46-Z-3666 in the ratio 50:50 and directed the appellant, Insurance Company to pay compensation of Rs.8,20,780/- (out of Rs.16,41,559/-) to the claimants together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation, vide its orders dated 19.03.2024.

6. Aggrieved over the quantum of compensation and the contributory negligence fastened on the part of the deceased to the extent of 50%, the appellants / claimants have filed the present appeal under Section 173 of the Motor Vehicles Act.



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7. Heard Ms.Sithi Fathima Samt, learned counsel appearing for the appellants and Mr.S.Arunkumar, learned counsel for the second respondent.

8. A perusal of the records shows that the accident took place in the middle of Chettikulam -Senjeri road. There was a head on collusion between the two vehicles and the Tribunal after properly analysing the evidence on record, had come to the conclusion that both the vehicles were at fault. In the circumstances, the contributory negligence fastened on the part of the deceased to the extent of 50%, is perfectly in order. The Tribunal had also awarded just compensation taking into account the number of claimants and the monthly income of the deceased. Therefore, I do not find any reason to interfere with the same. Accordingly, the Civil Miscellaneous Appeal stands dismissed. No costs.

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Index : Yes/No
Speaking order / Non speaking order
Neutral Citation : Yes / No
vum



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To

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- 1.The Motor Accidents Claims Tribunal,
Principal District Court, Perambalur.
- 2.The Section Officer, VR Section,
Madras High Court, Chennai.



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R.HEMALATHA, J.

vum

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