



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Civil Miscellaneous Appeal No.3102 of 2024
and CMP.No.25614 of 2024

1. The Superintendent of Police,
Salem.

2. The District Collector,
Salem.

... Appellants

Vs.

1.Manivannan
2. Parthiban
3. Jothi Usha

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 25.08.2015 passed by the Motor Accident Claims Tribunal, Special District Court, Dharmapuri in MCOP. No.486/2014.

For Appellant : Mr.P.Gurunathan, AGP

JUDGMENT

The appellants, aggrieved by the award passed by the learned Special District Court, Dharmapuri, Motor Accident Claims



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Tribunal, in M.C.O.P.No.486 of 2014, dated 25.08.2015, has filed this appeal.

2. The claimants, who are the sons and daughter of the deceased Raji @ Rajammal filed the claim petition before the Tribunal on the ground that the deceased Rajammal was travelling in a two wheeler along with her husband and mother in law bearing Registration No.TN 29 AH 8403 on 14.09.2013. At that time, the appellant vehicle Force traveller bearing Reg. No.TN 30 G 0407 belonged to Salem District Police was coming from Krishnagiri towards Salem in a rash and negligent manner and hit against the motorcycle and as a result, the rider Nagamani and the pillion riders viz., Rajammal and Chinnapillai died in the hospital. It is under these circumstances, the legal heirs have filed a separate claim petitions 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 conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the car belonging to the



appellant. Having rendered such a finding, in MCOP. No.486/2014, the Tribunal proceeded to determine the total compensation payable at Rs.3,62,000/- in the following manner:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of income	2,52,000
2.	Love and affection	75,000
3.	Transportation expenses	10,000
4.	Funeral Expenses	25,000
	Total	3,62,000

The Tribunal directed the above compensation to be paid with interest at the rate of 7.5% p.a.

4. The appellant aggrieved by the Liability as well as the quantum of compensation awarded by the Tribunal, has filed the present appeal.

5. The learned counsel for the appellant submitted that the deceased had also contributed towards the accident since the rider was riding the motor cycle along with two pillion riders and the accident had



happened only due to the negligence of the deceased who crossed the National Highway without noticing the vehicles in the road. Further, the rider of the motor cycle and two others who died in the accident are only daily coolie workers and the monthly income narrated in the claim petition at the time of the accident is excessive. The Tribunal has failed to consider the same and awarded compensation in respect of loss of dependency, which is very high. Hence, this Court may interfere with the award passed by the Tribunal.

6. Heard the learned counsel for appellant State and peruse the materials available on record. Though notice has been served on the respondent and name of the respondents have been printed in the cause list, no one appeared on their behalf. Hence, this Court is inclined to dispose the appeal based on the available records.

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

8. The appellant has preferred this appeal mainly questioning the



negligence aspect on the ground that there was contributory negligence on the part of the deceased, which was not considered by the tribunal.

9. The main ground that was urged by the learned counsel for the appellant was that the rider of the two wheeler was riding the two wheeler along with two pillion riders. Due to which, the accident had happened and lost their life.

10. Admittedly, Ex.P1/FIR has registered as against the appellant vehicle driver. In order to prove the case of the claimants, they examined PW2, who is eyewitness to the accident. To disprove the same, the appellants have not examined any witness. The Tribunal has also fixed the liability as against the appellant herein, which is perfectly in order.

11. In the considered view of this Court, the issue regarding the contributory negligence is not a matter of assumption and it has to be proved like any other fact based on the evidence that is let in before the Tribunal.



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12. The mere allegation that three persons were travelled in a two wheeler itself cannot lead to the assumption that there was contributory negligence. The Tribunal had taken into consideration the eye witness account of PW2, who clearly spoke about the manner in which the accident took place. That apart, the Tribunal also took into consideration the FIR that was registered against the driver of the appellant i.e. offending vehicle and also the final report that was filed by the police after the completion of the investigation. The appellant did not take any effort to disprove the case of the claimants.

13. In the light of the above discussion, the finding of the Tribunal fastened the liability, does not warrant the interference of this Court.

14. The quantum of compensation fixed by the Tribunal is also very reasonable and there is no scope for interfering with the same.

15. This Court does not find any ground to interfere with the compensation awarded by the Tribunal and hence, this Civil



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Miscellaneous appeal stands dismissed.

16. The appellant is directed to deposit the compensation, 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 four weeks from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment and apportionment of compensation remains unaltered. No costs. Consequently, connected miscellaneous petition is closed.

02.12.2024

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To
Motor Accident Claims Tribunal,
Special District Court, Dharmapuri.



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M.DHANDAPANI.,J

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