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C.M.A.No.1825 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1825 of 2020

And

C.M.P.No.13498 of 2020

The Divisional Manager,
United India Insurance Company Limited,
Officers Line,
Vellore District.

... Appellant

Vs.

1.Dhandapani
2.Vasanthi
3.Vignesh
4.Indumathi

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 20.03.2020 made in M.C.O.P.No.366 of 2018, on the file of the Motor Accidents Claims Tribunal (III Additional District Judge), Vellore at Tirupattur.

For Appellant : Mr.D.Bhaskaran

For Respondents : Mr.M.Arun

for M/s.Karan and Uday for R1 and R2
R3 & R4 – No Appearance

J U D G M E N T



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The third respondent before the Motor Accidents Claims Tribunal is the appellant herein. This appeal has been filed against the judgment and decree dated 20.03.2020 passed by the Motor Accidents Claims Tribunal (III Additional District Judge), Vellore at Tirupattur, in M.C.O.P.No.366 of 2018.

2.The learned counsel appearing for the appellant submitted that the respondents 1 and 2/ parents of the deceased/ claimants filed claim petition before the Motor Accidents Claims Tribunal claiming compensation of Rs.25 Lakhs alleging that on 25.12.2017 at about 6.45 p.m., the deceased Poovitha was travelling as a pillion rider in the motorcycle bearing Registration No.TN 83 T 4082 driven by the fourth respondent in a negligent manner in Tirupattur to Vaniyambadi Main Road near Salai Nagar bus stop. At that time, the motor cycle bearing Registration No.TN 83 W 9914 driven by the third respondent in a rash and negligent manner, dashed behind the motorcycle in which the deceased was travelling as pillion rider, due to which, the deceased lost her life.

3.The learned counsel appearing for the appellant further submitted that after adjudication, the Tribunal arrived at a conclusion



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that the third respondent is liable for 50% and the fourth respondent is liable for 50% of contributory negligence and awarded a sum of Rs.14,20,800/- as compensation to the claimants along with interest at 7.5% p.a. from the date of filing of the petition till the date of deposit with costs and directed the third respondent to deposit 50% of the amount and directed the appellant to deposit 50% of the amount and to recover the same from the fourth respondent.

4.The learned counsel appearing for the appellant further submitted that aggrieved by the fastening of liability on the appellant, this appeal has been filed. The learned counsel further submitted that F.I.R. was registered against the third respondent and the vehicle driven by him was not insured in any insurance company. The vehicle driven by the fourth respondent was insured with the appellant, however, the fourth respondent was not possessing valid driving licence and three persons travelled in the two wheeler which is not permissible and hence, the appellant is not liable to pay compensation to the claimants.

5.The learned counsel appearing for the respondents 1 and 2 submitted that even as per the claim petition, the respondents 3 and 4



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drove the vehicles in a negligent manner and due to the rash and negligent driving of the respondents 3 and 4, the accident happened and the deceased lost her life. Hence, the Tribunal arrived at a conclusion that the third respondent is liable for 50% and the fourth respondent is liable for 50% of contributory negligence and further submitted that the Tribunal rightly directed the third respondent to deposit 50% of the award amount and the appellant to deposit 50% of the award amount and to recover the same from the fourth respondent, which warrants no interference.

6.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondents 1 and 2 and perused the materials available on record.

7.The accident and the manner in which the accident happened are not disputed. Inorder to prove the case, the first respondent examined himself as P.W.1 and also examined one eye witness as P.W.2 and marked Ex.P1 to Ex.P.13. The Insurance Company examined R.W.1 – Administrative Officer and marked Ex.R1 to Ex.R4. Though the appellant examined R.W.1 before the Tribunal, inorder to disprove the case, the appellant Insurance Company did not examine



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any independent eye witness.

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8.Further, the Tribunal after considering all the factual aspects, arrived at a conclusion that due to the rash and negligent driving of the respondents 3 and 4, the accident happened and the deceased lost her life and held that the third respondent is liable for 50% and the fourth respondent is liable for 50% of contributory negligence and directed the third respondent to deposit 50% of the award amount and the appellant to deposit 50% of the award amount and to recover the same from the fourth respondent.

9.Further, the quantum of compensation awarded by the Tribunal is also just and reasonable and hence, the impugned judgment warrants no interference. The pay and recovery ordered by the Tribunal is confirmed.

10.The civil miscellaneous appeal is dismissed. The judgment and decree dated 20.03.2020 passed by the Motor Accidents Claims Tribunal (III Additional District Judge), Vellore at Tirupattur, in M.C.O.P.No.366 of 2018, is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/ No Speaking Order: Yes/ No NCC: Yes/ No

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M.DHANDAPANI,J.
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To

1.The Motor Accidents Claims Tribunal,
(III Additional District Judge),
Vellore at Tirupattur.

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