



WEB COPY



CMA.No.2441 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2441 of 2023 and
C.M.P.No.22911 of 2023

The National Insurance Company - Limited,
Divisional Office,
Murugappa Complex,
K.K.Road,
Villupuram - 605 602.

... Appellant

vs.

1. Rajamma
2. Kalpana
3. Kuppusamy

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award, dated 09.03.2023 in M.C.O.P.185/2018 on the file of the Motor Accident Claims Tribunal, Special District Court, Villupuram.

For Appellant : Mr.S.Senthilkumar
For R1 and R2 : Mr.Kaviveerappan

J U D G M E N T

Questioning the quantum of compensation awarded by the Motor Accident Claims Tribunal, Villupuram in M.C.O.P.185/2018, the



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present appeal is filed by the appellant, the National Insurance Company Limited, Villupuram.

2. The claimants / respondents 1 and 2 filed a claim petition under Section 166 (1) of Motor Vehicles Act, in M.C.O.P.185/2018 before the the Motor Accident Claims Tribunal, Special District Court, Villupuram, seeking compensation of Rs.50,00,000/- for the death of one Ilayaraja (son of the first claimant and brother of the second claimant) in a road accident which happened on 10.12.2017.

3. The brief case of the claimant is as follows :

On 10.12.2017, Ilayaraja (deceased) was riding his two sheeler bearing Registration number PY 05 W 4686 on Villupuram - Pondicherry road. When he was nearing Kandamangalam M.N.Kuppam, another two wheeler bearing Registration number PY 01 CC 4862 belonging to the third respondent, hit the two wheeler driven by Ilayaraja, resulting in his instantaneous death.



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4. According to the claimants, the rash and negligent driving of the driver of the two wheeler bearing Registration number PY 01 CC 4862 was the cause of the accident and that since the owner of the two wheeler had insured his vehicle with the appellant, the National Insurance Company Limited, the owner and the insurer are jointly and severally liable to pay compensation to them.

5. In the Tribunal, the owner of the two wheeler bearing Registration number PY 01 CC 4862 remained absent and was set *ex parte*. The appellant, Insurance Corporation resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

6. 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 PY 01 CC 4862 in the ratio 50:50 and directed the appellant, Insurance Company to pay compensation of Rs.8,42,900/- 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



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dated 09.03.2023. The Tribunal also held that the liability of the owner of the two wheeler and the insurer is joint and several.

7. Questioning their liability to pay compensation, the present appeal is filed by the appellant / the National Insurance Company Limited.

8. Heard Mr.S.Senthilkumar, learned counsel for the appellant / Insurance Company and Mr.Kaviveerappan, learned counsel for the respondents 1 and 2 / claimants.

9. Mr.S.Senthilkumar, learned counsel for the appellant / Insurance Company contended that though FIR was registered against the rider of the two wheeler bearing Registration number PY 05 W 4686 (deceased) and the police after conducting investigation had laid a final report against him. The Tribunal had wrongly fastened negligence on the part of the rider of the two wheeler bearing Registration number PY 01 CC 4862 to the extent of 50%. He therefore prayed for setting aside the same.

10. Per contra, Mr.Kaviveerappan, learned counsel appearing for the claimants contended that the Tribunal after analysing the evidence



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on record, had come to the conclusion that both the vehicles were at fault and therefore there is no need for this Court to interfere with the same.

11. The manner of accident as is seen from the evidence adduced on both sides clearly shows that the drivers of both the two wheelers were at fault. The Tribunal also by its well reasoned orders had, concluded that the accident took place due to rash and negligent driving of the drivers of both the vehicles. In the circumstances, merely because, the FIR and final report were against the deceased, it cannot be said that the entire negligence is on the part of the rider of the two wheeler who died in the accident.

12. In the result,

The Civil Miscellaneous Appeal is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Speaking/Non-speaking order
Neutral citation : Yes / No
vum

R.HEMALATHA, J.

vum

To



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1. The Motor Accident Claims Tribunal,
Special District Court,
Villupuram.

2. The Section Officer, VR Section,
Madras High Court, Chennai.

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