



PIN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2024

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA Nos.1426 & 1427 of 2024
and CMP Nos.12400 & 12403 of 2024

CMA No.1426 of 2024

Dominic Savio

..Appellant

.VS.

1.Ajithkumar

2.Maruthamuthu

..Respondents

Prayer in CMA No.1426 of 2024: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Decree and Judgment dated 06.04.2022 made in M.C.O.P.No.508 of 2018, on the file of the Motor Accidents Claims Tribunal Cum III Additional District and Sessions Judge, Vridhachalam.

CMA No.1427 of 2024

Dominic Savio

..Appellant

.VS.

1.Selvi

2.Dhandapani

..Respondents

Prayer CMA No.1426 of 2024: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Decree and Judgment dated 04.04.2022 made in M.C.O.P.No.158 of 2018, on the file of the Motor Accidents Claims Tribunal Cum III Additional District and Sessions Judge, Vridhachalam.



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For Appellant : Mrs.V.Dhanalakshmi
(Both CMAs)

For Respondents : Mr.Krishnasamy Chinnasamy
(Both CMAs) for R1

COMMON JUDGMENT

These appeals arises out of the separate awards passed in MCOP.No.508 of 2018, dated 06.04.2018 and M.C.O.P.No.158 of 2018, dated 04.04.2018, on the file of the Motor Accidents Claims Tribunal Cum III Additional District and Sessions Judge, Vridhachalam and since the case arises out of a single accident, both these appeals are heard together and disposed of through this common judgment.

2.The claimant in MCOP No.508 of 2018 is the injured and the claimants in MCOP No.158 of 2018 are the parents of the deceased Vijay. The case of the claimants is that on 14.02.2018 the deceased Vijay was riding the two wheeler from Kammapuram to Vriddhachalam. The claimant in MCOP No.508 of 2018, was the pillion rider in the two wheeler. At about 07.30 pm., when the two wheeler approached Keenanur bus stop, the tractor belonging to the appellant herein was driven in a rash and negligent manner and it dashed on the two wheeler as a result of which, Vijay died on the spot and the claimant in MCOP No.508 of 2018 sustained fracture in the right elbow and also injuries all over the body. An FIR came to be registered against the driver of the tractor and on completion of investigation, the criminal proceedings were also pending in C.C.No.331 of 2018, before the Competent Court. It is under these circumstances, two independent claim petitions came to be filed by the injured and also the dependents of the deceased Vijay.



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 offending vehicle. Having rendered such a conclusion, the Tribunal proceeded to fix the total compensation at Rs.14,15,800/- under various heads in MCOP No.158 of 2018 as follows: :

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of income/dependency	13,60,800/-
2.	Loss of companionship	40,000/-
3.	Funeral Expenses	15,000/-
	Total	14,15,800/-

Insofar as MCOP No.508 of 2018, the Tribunal fixed the total compensation at Rs.2,29,843/- as follows:

S.No	Compensation awarded under the head	Amount (in Rs.)
1.	14% Disability	1,35,000/-
2.	Pain and suffering	25,000/-
3.	Nutrition Expenses	5,000/-
4.	Attender Charges	5,000/-
5.	Medical Expenses	48,843/-
6.	Transportation Expenses	3,500/-
7.	Loss of Income	7,500/-
	Total	2,29,843/-

4.The above compensation was directed to be paid with interest at the rate of 7.5% per annum.

5. The owner of the vehicle aggrieved by the award passed by the Tribunal has



filed these appeals questioning the quantum of compensation awarded by the Tribunal, seeking for enhancement of compensation.

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6.Heard Mrs.V.Dhanalakshmi, learned counsel for the appellant and Mr.Krishnasamy Chinnasamy, learned counsel for R1.

7.This Court has carefully considered the submissions made on either side and the materials available on record. This Court also carefully gone through the award passed by the Tribunal.

8.Insofar as the negligence is concerned, the Tribunal has considered the evidence of PW1 and PW.2 and also the evidence of RW.1 along with all the relevant documents including the criminal proceedings and has come 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 tractor. This finding rendered by the Tribunal does not suffer from any illegality warranting the interference of this Court.

9.Insofar as the fixation of compensation under various heads, this Court finds that a very reasonable compensation has been fixed by the Tribunal. In fact, there are certain heads where the enhancement must be ordered. However, this Court does not want to undertake that exercise since the appellant in this case is the owner of the vehicle and he is already finding it difficult to pay the compensation to the claimants.



10. In the light of the above discussion, this Court does not find any ground to interfere with the award passed by the Tribunal and the award passed by the Tribunal in MCOP No.508 of 2018, dated 06.04.2018 and MCOP Nos.158 of 2018, dated 04.04.2022, on the file of the Motor Accidents Claims Tribunal Cum III Additional District and Sessions Judge, Vridhachalam, is hereby confirmed. These civil miscellaneous appeals accordingly stands dismissed. There shall be a direction to the appellant to deposit the entire compensation amount with interest in MCOP No.158 of 2018, within a period of eight weeks from the date of receipt of copy of the judgement. Insofar as MCOP No.508 of 2018, the appellant is directed to deposit the compensation with interest within a period of four weeks from the date of receipt of copy of the judgement. On such deposit, the claimants will be entitled to withdraw the same. No costs. Consequently, connected miscellaneous petitions are closed.

01.07.2024

Index : Yes/No
Speaking Order/No
Neutral citation : Yes/No
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To
Motor Accidents Claims Tribunal
Cum III Additional District and Sessions Judge
Vridhachalam.



N. ANAND VENKATESH., J
kp

CMA Nos.1426 & 1427 of 2024

01.07.2024