



C.M.A.No.4607 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **03.04.2024**

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.4607 of 2019

The Branch Manger,
United India Insurance Company Ltd.,
Neela South Veedhi,
Nagapattinam Town,
Taluk & District.

... Appellant

Vs.

1.Smt.Vanitha
2.Minor.Devi priya
3.Minor.Sasirekha
4.Minor.Parameswaran
(Minor respondent Nos.2 to 4 are
Rep. through their
Mother and Natural Guardian and
Next Friend Smt.Vanitha / 1st respondent herein)

5.R.Rengasamy
6.Samuthiram
7.Rathinam

... Respondents

PRAYER: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 challenging the fair and decretal dated 06.06.2018 made in M.C.O.P. No.37 of 2014 on the file of the Motor Accidents Claims Tribunal (Before the Subordinate Judge, Mannargudi).



WEB COPY



C.M.A.No.4607 of 2017

For Appellant : Ms.I.Malar

For Respondents : No appearance

JUDGMENT

This appeal has been filed by the Insurance Company, challenging the impugned award, primarily aggrieved by the adverse findings of negligence given by the Tribunal against the driver of the vehicle insured with the appellant. According to the appellant, no eye witness was examined on the side of the claimants before the Tribunal. But, despite the same, the Tribunal has passed an award holding that the driver of the vehicle insured with the appellant is responsible for the cause of the accident.

2. Admittedly, F.I.R. has been registered only against the driver of the vehicle insured with the appellant. The victim died while he was standing behind the tractor insured with the appellant. The tractor (insured vehicle) while reversing had dashed against the victim which resulted in his death. Before the Tribunal, the following documents were marked as exhibits on the side of the claimants:

"Ex.P1 is the First Information Report dated



WEB COPY



C.M.A.No.4607 of 2010

25.07.2010

Ex.P2 is the Post Mortem Report dated 25.07.2010

Ex.P3 is the Motor Vehicle Inspector's Report dated

28.08.2010

Ex.P4 is the Death Certificate dated 03.08.2010

Ex.P5 is the Insurance Policy dated 24.03.2010

Ex.P6 is the Family Card

Ex.P7 is the Driving Licence

Ex.P8 is the R.C. Book

Ex.P9 is the Election Identity Card"

3. Two witnesses were also examined on the side of the claimants. On the side of the appellant / Insurance Company, their investigation report was marked as Ex.R1. Their official was also examined as a witness (RW1). PW2 is the eye witness examined on the side of the respondents / claimants. He has also deposed that the cause of the accident which resulted in the death of the victim was a tractor insured with the appellant. Though, the investigation report (Ex.R1) which is not an independent report, but is a report submitted by the appellant's own official, would reveal that the victim was in a drunken state, the said report cannot be accepted, as the postmortem certificate, marked as Ex.P2, does not reveal any alcohol traces in the body of the deceased. The Tribunal has rightly held that the



contention of the appellant / Insurance Company that only due to the drunken state, the victim had died, cannot be accepted. The evidence of the eye witness (PW2) has not been disproved by any contra evidence produced by the appellant / Insurance Company. The Tribunal has rightly, based on preponderance of probability has held the appellant / Insurance Company liable to pay the compensation. The appellant / Insurance Company has not questioned the quantum of compensation awarded by the Tribunal. While that be so, this Court is not interfering with the quantum of compensation awarded by the Tribunal under the impugned award.

4. For the foregoing reasons, there is no merit in this appeal. Accordingly, this appeal is dismissed. Eventhough, notice was ordered to the respondents in this appeal, till date, the respondents have not been served. Since this appeal is dismissed, there is no necessity for the appellant to serve notice on the respondents. No costs.

03.04.2024

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
ab



C.M.A.No.4607 of 2020

To

1. The Motor Accidents Claims Tribunal (Before the Subordinate Judge, Mannargudi).

2. The Section officer, Record Section, High Court of Madras.



WEB COPY



C.M.A.No.4607 of 2019

ABDUL QUDDHOSE. J.,

ab

C.M.A.No.4607 of 2019

03.04.2024