



C.M.A.(MD)No.1022 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 12.09.2024

CORAM :

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A(MD)No.1022 of 2013

The Oriental Insurance Company Limited,
3607/21, 2nd Floor,
Sathiyamoorthy Road,
Pudukkottai – 622 001.

... Appellant/2nd Respondent

Vs.

1.Minor Krithika
2.Minor Kesiya
3.Minor Hariraju
4.Poongavanam
5.Palaniyandi
6.Symandrose

...Respondents 1 to 5/Petitioners 1 to 5
..6th Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 03.04.2012 passed in M.C.O.P.No.104 of 2008 on the file of the Motor Accident Claims Tribunal Judge, Sub Judge, Kulithalai.

For Appellant	: Mr.C.Jawahar Ravindran
For R1 to R5	: No appearance
R6	: Dispensed with

JUDGMENT

The instant appeal has been filed challenging the finding on negligence and the quantum of compensation.



2.The respondents 1 to 5 herein/claimants filed a claim petition stating that on 19.02.2007 at about 9.30 p.m, while the deceased was travelling in his two-wheeler, the vehicle insured with the appellant, namely, a Van, came in a rash and negligent manner and dashed against the two-wheeler, as a result of which, the deceased sustained fatal injuries.

3. The 6th respondent herein, who is the owner of the van, remained exparte before the Tribunal.

4. The appellant filed a counter stating that the accident took place only due to the negligence of the deceased; and that, in any case, the compensation claimed was excessive.

5. The respondents 1 to 5/claimants examined P.W.1 to P.W.3 and marked Ex.P.1 to Ex.P.6. The appellant examined R.W.1 and marked Ex.R.1.

6. The Tribunal, after taking into consideration the oral and documentary evidence, held that the accident took place only due to the



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rash and negligent driving of the driver of the insured vehicle and directed the appellant to pay the compensation of Rs.8,86,000/-.

7. The learned counsel for the appellant submitted that the finding on negligence is erroneous inasmuch as the accident took place only due to the negligence of the rider of the two-wheeler and in any case, the compensation awarded by the Tribunal was excessive.

8. The learned counsel for the respondents 1 to 5/claimants per contra submitted that the appellant had not produced any evidence contra to the evidence adduced on the side of the claimants and there is no error in the finding on negligence by the Tribunal, and he prayed for dismissal of the appeal.

9. This Court gave its anxious consideration to the submissions made by the learned counsel for the appellant and carefully perused the materials available on record.

10. The points for consideration in the instant appeal are as follows:



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- a) Whether the finding on negligence by the Tribunal is justified; and
- b) Whether the compensation awarded by the Tribunal is just and reasonable.

11. As regards the first point, it is seen that the claimants had examined an eyewitness P.W.2, who had deposed that the accident took place only due to the rash and negligent driving of the insured vehicle; that the claimants had also marked Ex.P.1 which corroborates the version of P.W.2; that the appellant had not produced any evidence to disprove the evidence adduced on the side of the claimants; that the finding on negligence by the Tribunal is in accordance with law; and that there is no reason to interfere with the said finding. The point No.1 is answered accordingly.

12. As regards the quantum of compensation, it is seen that the claimants had established that the deceased was working as a driver. They claimed that the deceased was earning Rs.7500/-. However, since no documentary evidence was produced, the Tribunal had adopted the notional income of Rs.6000/- considering the age, avocation and the year of the accident, which cannot be faulted. After applying the correct



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multiplier and making necessary deductions, the Tribunal had computed the loss of income and after granting compensation under other conventional heads, awarded a total compensation of Rs.8,86,000/-. This Court is of the view that there is no infirmity in the said award of compensation and there is no reason to interfere with the same. The point No.2 is answered accordingly.

13. The learned counsel for the appellant shall deposit the entire compensation amount with accrued interest at the rate of 7.5% from the date of petition till the date of deposit, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. The respondents 1 to 5/ claimants are permitted to withdraw the same as per the apportionment fixed by the Tribunal.

14. In the result, the appeal is dismissed. No costs.

12.09.2024

Index : Yes / No
Neutral Citation : Yes / No
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To

1. Motor Accident Claims Tribunal Judge,
Sub Judge, Kulithalai.

2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

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Judgment made in
C.M.A(MD)No.1022 of 2013

12.09.2024