



CMA.(MD)No.488 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 26/07/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

CMA (MD) No. 488 of 2024

and

CMP (MD) No. 6543 of 2024

The Manager,
M/s.S.V.S Motors,
Having its Office at
No.8485, Alangudi Road,
Pudukkottai.

: Appellant/3rd Respondent

Vs.

1.S.Lakshmi
2.S.Ravichandran
3.S.Sathyamoorthy
4.S.Aruldevi

: Respondents 1 to 4/
Petitioners 1 to 4

5.V.Ruban
6.The Divisional Manager,
ICICI Lambord General Insurance Co. Ltd.,
Chottaboy Complex,
Nungampakkam,
Chennai.

: Respondents 5 and 6/
Respondents 1 and 2

PRAYER:-Civil Miscellaneous Appeal is filed under section 173 of the Motor Vehicles Act, 1988 to set aside the judgment and decreetal order made in MCOP No.249 of 2017 on the file of the Motor Accidents Claim Tribunal (I Additional District and Sessions Judge), Thanjavur, dated 15/02/2019.



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For Appellant : Mr.D.Rameshkumar
For R1 to R4 : Mr.N.Tamil Mani
For 5th Respondent : No appearance
For 6th Respondent : Mrs.V.Muthukamatchi

JUDGMENT

This Civil Miscellaneous Appeal is filed seeking to set aside the award passed in MCOP No.249 of 2017, dated 15/02/2019 by the Motor Accident Claims Tribunal (I Additional District and Sessions Judge), Thanjavur.

2.The facts in brief:

On 04/10/2015 at about 09.00 am, the deceased Sivaprakasam was walking to his house on the left side of the road in Alangudi-Pudukkottai main road. When he was nearing Palaniyappa Rice Mill, the rider of the first respondent two wheeler bearing registration No.TN-55-AM-7786 drove the same in a rash and negligent manner and hit the Sivaprakasam. He sustained grievous injuries and taken to Pudukkottai Government Hospital and later to the Thanjavur Medical College Hospital. But without responding to the treatment, he died.

3.A case in Crime No.416 of 2015 was registered by the Alangudi Police Station under sections 279, 337,



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304 (A) IPC against the first respondent. Claiming compensation of Rs.30,00,000/-, the dependents of the deceased filed the claim petition before the Tribunal.

4.That was resisted by the first respondent, who is the rider of the two wheeler stating that the deceased Sivaprakasam without minding the traffic rules, hit the vehicle and invited the accident; Against the medical advise, he discharged himself from the hospital; After three months of treatment, he died.

5.The Insurance Company filed a counter by adopting the counter filed by the first respondent with regard to the occurrence.

6.The third respondent, who is the appellant herein did not appear before the Tribunal. He was set *ex-parte*.

7.Before the Tribunal, on the side of the claimants, 2 witnesses were examined and 11 documents were marked. On the side of the respondents, no oral and documentary evidence was adduced.

8.At the conclusion of the trial process, with regard to the first aspect of negligence, the Tribunal



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recorded a finding that the 1st respondent was responsible for the accident. It is further observed that the vehicle was not insured with the Insurance Company on the date of the accident. In fact, it was insured after 23 days of the accident I.e., from 27/10/2015 at 16.45.14 hours. The date of accident is 04/10/2015. So, on the date of the accident, there was no effective policy. So, the Insurance Company was exonerated from the liability. There was no appeal by the claimants.

9.Regarding the compensation amount, considering the occupation of the deceased, notional income was fixed at Rs.7,500/-. The age of the deceased was 55 years at the time of the accident, 10% future prospects was taken and monthly notional income was fixed at Rs.8,250/-. 1/4th was deducted towards personal and living expenses. Multiplier '11' was taken and the Loss of Dependency was fixed at Rs.8,16,816/-. To that, conventional amounts were added. Accordingly, the total compensation was fixed at Rs.8,86,816/- as per the tabulation given hereunder:-

Loss of Dependency	Rs.8,16,816/-
Loss of consortium	Rs. 40,000/-
Funeral expenses	Rs. 15,000/-
Loss of estate	Rs. 15,000/-
Total	Rs.8,86,816/-



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and directed the appellant herein to pay the compensation along with the first respondent. On what ground, such a direction was issued is not available in that order.

10.Heard both sides.

11.The learned counsel appearing for the appellant would submit that the vehicle was sold by the appellant to the first respondent on 30/09/2015. The accident took place on 04/10/2015. But in the meantime, the owner of the two wheeler did not take any steps, either to get the vehicle registered or taken insurance for coverage. The lapse committed on the part of the owner cannot be contributed to the appellant. After sale, it is the risk and responsibility taken by the purchaser to take effective steps. Since the 5th respondent herein, who is the owner/driver of the vehicle failed, no liability can be fastened upon the appellant. This argument appears to be sound and reasonable. Once, he sold the vehicle, the responsibility shifted to the purchaser. The 5th respondent herein also remained *ex-parte* before the Tribunal. So, the liability fixed upon the appellant is not legal.



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12. So far as the compensation amount, the award of the Tribunal is just and reasonable. So, it is confirmed.

13. On that sole ground, the award passed by the Tribunal is modified to the effect that the entire compensation shall be payable only by the 5th respondent herein.

14. In the result, this Civil Miscellaneous Appeal is **allowed**. The award passed by the Tribunal is modified to the effect that the entire compensation shall be payable only by the 5th respondent herein. The appellant herein is exonerated from paying the compensation. No costs. Consequently, connected Miscellaneous Petition is closed.

26/07/2024

Index: Yes/No
Internet: Yes/No
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To,

1. The Motor Accident Claims Tribunal/
I Additional District and Sessions Judge,
Thanjavur.
2. The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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