



C.M.A.(MD)No.1087 of 2015

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.1087 of 2015
and M.P(MD)No.3 of 2015

The General Manager,
National Insurance Company Limited,
Branch Office – 3,
2/7, Pudukkottai Road,
Tiruchirappalli - 20

... Appellant/2nd Respondent

Vs.

1.Durairaj

2.Meenambal

...Respondents 1 & 2/Petitioners

3.Saravanakumar

...3rd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 25.10.2013 passed in M.C.O.P.No.283 of 2013 on the file of the Motor Accident Claims Tribunal Judge, Special District Court, Tiruchirappalli.

For Appellant : Mr.J.S.Murali

For R1 & R2 : Mr.N.Sudhagar Nagaraj



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JUDGMENT

The instant appeal has been filed challenging the finding on negligence and liability.

2.The respondents 1 and 2 herein/claimants filed a claim petition stating that while the deceased was walking on the Trichy-Karur main road, the car bearing Reg. No. TN-45-P-1999 and insured with the appellant came in a rash and negligent manner and dashed against the deceased, as a result of which, the deceased sustained fatal injuries.

3. The 3rd respondent herein, who is the owner of the offending vehicle, remained exparte before the Tribunal.

4. The appellant filed a counter stating that the averments in the claim petition are false; that the insured vehicle was not involved in the occurrence; and that in any case, the compensation claimed was excessive.

5. The claimants examined P.W.1 to P.W.3 and marked Ex.P.1 to



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Ex.P.5 besides Ex.X.1 to Ex.X.3. The appellant examined R.W.1 and marked Ex.R.1 to Ex.R.5.

6. The Tribunal, after taking into consideration the oral and documentary evidence, held that the accident took place only due to the rash and negligent driving of the driver of the insured vehicle and directed the appellant to pay the compensation of Rs.2,74,000/-.

7. The learned counsel for the appellant submitted that the appellant had disputed the accident itself; that it is a case of bogus claim, as could be seen from the evidence of R.W.1 and the inspection report submitted by R.W.1; that the driver of the insured vehicle had falsely pleaded guilty before the learned Magistrate; that the Tribunal erred in holding the driver of the insured vehicle liable for rash and negligent driving; and that in any case, the compensation awarded by the Tribunal is excessive.

8. The learned counsel for the respondents 1 2/claimants and per contra submitted that the award of the Tribunal is justified and there is no reason to interfere with the award.



9. This Court gave its anxious consideration to the submissions made by the learned counsel for the appellant and the learned counsel for the respondents 1 and 2 and carefully perused the materials available on record.

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

- 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, the appellant had taken a stand that the insured vehicle was not at all involved in the accident. R.W.1, who was examined on the side of the appellant, stated that he had conducted an inspection and found that the claim was bogus. The appellant in fact had lodged the complaint to the CBCID police and after investigation, the said complaint was closed. The Officer, who conducted the investigation, was examined as P.W.3 by the claimants, who had deposed that the averments in the claim petition were true and the accident took place in the manner alleged by the claimants and therefore, they had



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closed the complaint. That apart, it is seen that the driver of the offending vehicle had pleaded guilty to the charge under Section 304(A) IPC before the learned Judicial Magistrate No.3, Trichy and he was convicted by judgment dated 19.03.2002 and was directed to pay fine. There was no challenge to that judgment.

12. The claimant had also examined the eyewitness P.W.2 whose evidence is corroborated by the evidence referred to above. In the light of the foregoing evidence produced on the side of the claimants, this Court is of the view that the finding on negligence holding the driver of the insured vehicle liable for rash and negligent driving and directing the appellant to pay compensation cannot be faulted. The point No.1 is answered accordingly.

13. As regards the quantum of compensation, it is seen that the deceased was aged 17 years and considering his age and the educational qualification, the Tribunal had awarded a total compensation under various heads and no infirmity has been pointed out by the learned counsel for the appellant as regard the quantum and hence, the award of



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compensation is just and reasonable. The point No.2 is answered accordingly.

14. The learned counsel for the appellant submitted that the entire compensation amount of Rs.2,74,000/- has been deposited. The respondents 1 and 2/ claimants are permitted to withdraw the same as per the apportionment fixed by the Tribunal.

15. In the result, the appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

12.09.2024

Index : Yes / No
Neutral Citation : Yes / No
CM

To
1. Motor Accident Claims Tribunal Judge,
Special District Court, Tiruchirappalli.

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



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SUNDER MOHAN, J.

CM

Judgment made in
C.M.A(MD)No.1087 of 2015
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