



C.M.A.(MD)No.1131 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.1131 of 2015
and M.P(MD)No.1 of 2015

The Branch Manager,
National Insurance Co. Ltd.,
D.No.1631-17-B First Floor,
Salem Bhavani Main Raod,
Sangakiri,
Salem 637 301

... Appellant/2nd Respondent

Vs.

1.Shanthakumari
2.Devadass

...Respondents 1 and 2/Petitioners

3.K.S.Lenin

...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 12.01.2015 passed in M.C.O.P.No.12 of 2013 on the file of the Motor Accident Claims Tribunal, II Additional District Judge, Tirunelveli.

For Appellant	: Mr.S.Srinivasa Raghavan
For R1 & R2	: No appearance
R3	: Given up



JUDGMENT

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

2.The respondents 1 and 2/claimants filed a claim petition stating that while the deceased was riding his motorcycle, a vehicle insured with the appellant came in a rash and negligent manner and dashed against the motorcycle 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 accident took place due to the negligence of the deceased; that the first information report registered by the police against the driver of the offending vehicle was closed as "action dropped"; that hence, the appellant is not liable to pay compensation; and that in any case, the compensation claimed was excessive.

5. The claimants examined P.W.1 and P.W.2 and marked Ex.P.1 to



Ex.P.7. The appellant examined R.W.1 and marked Ex.R.1 and Ex.R.2.

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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 offending vehicle and directed the appellant to pay the compensation of Rs.6,93,000/-.

7. The learned counsel for the appellant submitted that the finding on negligence is erroneous since the first information report lodged against the driver of the offending vehicle was ultimately closed as "action dropped".

8. Though a learned counsel has filed vakalat for the claimants, there is no representation for the claimants today. The learned counsel for the appellant has given up the 3rd respondent, who is the owner of the offending vehicle as he remained ex parte before the Tribunal as he may not be necessary.

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.

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10. The point for consideration in the instant appeal is as follows:

Whether the finding on negligence by the Tribunal is justified.

11. The claimant had examined P.W.2 to prove the manner of accident. The appellant had not examined any eyewitness to the occurrence. It is a case of the claimants that the insured vehicle was driven in a rash and negligent manner and dashed against the two-wheeler ridden by the deceased. The appellant has not produced any contra evidence to disprove the evidence of the claimants. However, the only ground raised by the appellant is that the first information report lodged against the driver has been closed as "action dropped". It is well settled that the nature of inquiry in a criminal investigation is different from the nature of enquiry before the Tribunal. Merely because, the first information report against the driver of the offending vehicle was closed as "action dropped", it cannot be said that tort of negligence was not established before the Tribunal. Therefore, the point for consideration is answered accordingly.



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12. There is no challenge to the quantum of compensation. Hence, the learned counsel for the appellant shall deposit the entire compensation amount of Rs.6,93,000/- 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 four weeks from the date of receipt of a copy of this judgment. The respondents 1 and 2/ claimants are permitted to withdraw the same by filing a suitable application before the Tribunal.

13. 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, II Additional District Judge,
Tirunelveli.

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.1131 of 2015
and M.P(MD)No.1 of 2015

12.09.2024