
(1993) 09 MAD CK 0076
In the Madras High Court

Nagappa Gounder and Another

APPELLANT

Vs

Padmavathi and Others

RESPONDENT

Date of Decision : 09-09-1993

Acts Referred:

Citation : (1994) 1 ACC 300 : (1993) 2 LW 341

Hon'ble Judges : Ratnam, J

Bench : Single Bench

Judgement

Ratnam, J.—In this appeal, at the instance of respondents 3 and 4 in M.A.O.C.P.No. 476 of 1990 on the file of Motor Accidents Claims Tribunal (District Court), Dindigul, against the award passed therein, holding that the appellants herein are not entitled to any share in the compensation awarded to respondents 1 to 5, in respect of the death of one Kadirmuthu, in an accident that took place on 4.11.1988, involving the motor cycle TCL 235 driven by the deceased and the Van TCT 2656, the only question that arises for consideration is, whether the Tribunal was justified in holding so.

2. According to the case of the widows and children of the deceased Kadirmuthu, the accident in which he lost his life, was only on account of the rash and negligent driving of the van TCT 2656 and in respect of his death, compensation in a sum of Rs. 2,00,000/- should be awarded to them. The claim so made, was resisted, among others, by the appellants herein on the ground that as parents of the deceased, they would each be entitled to Rs. 25,000/- out of the compensation awardable to respondents 1 to 5.

3. The Tribunal, after holding that the accident took place only on account of the rash and negligent driving of the van by its driver and further that respondents 1 to 5 were entitled to Rs. 1,15,000/- by way of compensation, rejected the claim of the appellants to a share therein, on the ground that even in 1985, a partition had taken place and thereafter, there was no question of any dependency of the appellants on their divided son for their maintenance and therefore, there was no justification for the claim made by the appellants. In the view so taken, the claim

for a share in the compensation was rejected by the Tribunal.

4. Learned Counsel for the appellants, in support of this appeal, strenuously contended that the appellants being the parents of the deceased Kadirmuthu, are entitled to be given a share in the amount of compensation awardable to respondents 1 to 5 and the Tribunal fell into an error in rejecting the claim. However, it is not possible to accept this contention. It may be that the appellants are the father and mother of the deceased, who lost his life in the accident. However, that by itself, would not enable them to claim a share in the amount of compensation, particularly in view of the evidence of the 1st appellant, examined as R.W.2. In the course of his cross examination R.W.2 stated that he has two sons and in 1985, there was a partition between the deceased and himself, under which, the deceased was allotted 7-1/2 acres of land. In the re-examination R.W.2 stated that after the partition, the properties had been enjoyed separately by the divided members. From this evidence of R.W.2. it is clear that the 1st appellant and his wife, and 2nd appellant, were not in any manner dependent upon the deceased for their day to-day maintenance or requirements, particularly, when R.W.2 had admitted that each divided member was given separate portions of the properties and the appellants were also given some properties in the partition and that therefore, the appellants cannot be regarded as persons dependent upon the deceased for the purposes of their maintenance or daily needs. Under these circumstances, the Tribunal was quite justified in declining to award any amount to the appellants. The C.M.A. is, therefore, dismissed. There will be no order as to costs.