

In the High Court of Judicature at Madras

Dated :: 03.09.2015

Coram :

The Hon'ble Mr. Justice S. Manikumar
and
The Hon'ble Mr. Justice M. Venugopal

C.M.A. 1973 of 2015

Shriram General Insurance Company Ltd.,
SGIC, E-8, EPIP, RIICO, Industrial Area
Sitapura, Jaipur
Rajasthan - 302 022. ... Appellant
(3rd Respondent)

-vs-

1. M. Vijaya
W/o. Murugan
2. S. Murugan
S/o. Subbaiah
3. Minor Illavarasi
D/o. S. Murugan
(Minor represented by her
mother M.Viajaya)
all are residing at
No: 4/33, 10th Street, Vinayagapuram
Karanaipuducherry, Urappakkam,
Chennai - 603 202.

4. R. Rasu
S/o. Ramamirtham
No: 3/143 NA EMPAVI Ward 23
Magaimdam, Nagapattinam District.

5. C. Suresh
S/o. Chinnathambi
1/56 Chelliyamman Koil St.
69 Radhanallur, Sirkali Taluk
Nagapattinam District.

... Respondents
(Petitioners &
Respondents 1 & 2)

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to set aside the judgment and decree dated 20.11.2014 passed in M.C.O.P. No.2627 of 2013 on the file of the Motor Accidents Claims Tribunal (II Court of Small Causes), Chennai.

For appellant : Mr. S. Dhakshinamoorthy
.. ..

J U D G E M E N T

(Judgment of the Court was delivered by S.Manikumar, J.)

This Civil Miscellaneous Appeal arises out of an award dated 20.11.2014 made in M.C.O.P. No: 2627 of 2013, whereby the Motor Accident Claims Tribunal (II Court of Small Causes), Chennai, awarded a compensation of Rs.14,09,000/- with interest at 7.5% per annum for the death of one M. Manikandan in a road accident said to have taken place on 14.02.2013 at 7.00 p.m. at E.C.R. Road, near Mamallapuram, Elanthoppu, Pattipulam.

2. A Claim Petition in M.C.O.P. No: 2627 of 2013 has been filed by the claimants, viz. Mother, father and sister of the deceased, claiming a compensation of Rs.25,00,000/- for the death of the deceased Manikandan, in a road accident, and resisted by the appellant Insurance company.

3. According to the claimants, Manikandan was a self-employed contract worker in building - Civil Work Designer (Drawing Elevation Worker). On 14.02.2013 about 7.00 p.m. when Manikandan was crossing the road on the ECR Road, Mamallapuram pattipulam near Pudunemeli, a Mahindra Van bearing registration No: TN-68-C-4051 driven in a terrific speed in a rash and negligent manner, dashed against Manikandan, who sustained multiple greivous injuries, including head injury. He was initially treated in Government Hospital, Chengalpet and thereafter on the same day, shifted to Government General Hospital, Chennai - 3, where he died on 23.02.2013.

4. The Tribunal, after framing the issues, decided the claim petition in favour of the claimants. The Tribunal held that the accident occurred on 14.02.2013, only due to the rash the negligent driving of the Mahindra Van bearing Registration No: TN-68-C-4051 owned by the 4th respondent herein. The 5th respondent is the subsequent purchaser of the vehicle. The Tribunal also held that the claimants are entitled to compensation and determined a sum of Rs.14,09,000/- as compensation.

5. Mr.Dhakshinamoorthy, the learned counsel appearing for the appellant / Insurance Company, apart from denying the involvement of the Mahindra Van in the accident, also contended that the compensation of Rs.14,09,000/- awarded to the claimants is highly excessive.

6. On the question of negligence, the Tribunal, based on the oral evidence adduced by P.W.2 - Maheshkumar, an eye witness, held that the contents in the claim petition in so far as the manner of accident is concerned stands duly corroborated by P.W.2 and Ex.P.1, the copy of the First Information Report, which came to be registered, based on the complaint lodged by one R.Ramesh, a third party. Thus, the Tribunal, held that the accident occurred due to the rash and negligent driving of the van and hence, the 4th and 5th respondents herein, being owners of the vehicle and the appellant, being the insurer of the vehicle were jointly and severally held liable to pay the compensation to the claimants, for the death of Manikandan in the accident. Going through the materials and records produced, we do not find any infirmity, in the finding of the Tribunal.

7. Coming to the question of quantum, the Tribunal, based on the evidence, both oral and documentary, has determined that the deceased was aged 19 years, at the time of accident. Though the claimants claimed that the deceased was a Building Civil Work Designer (Drawing) Elevation Worker, and earning a sum of Rs.750/- per day, as no proof of avocation and income was produced, the Tribunal fixed the monthly earning of the deceased as Rs.7,000/- and then added up 50% of the monthly salary, under the head Loss of future prospects and for the purpose of computing loss of dependancy, fixed the monthly income of the deceased as Rs. 10,500/-. After deducting one half of that sum, towards his personal expenses, by adopting 18 as multiplier, the pecuniary loss is calculated as Rs.11,34,000/- (Rs. 5,250/- x 12 x 18 = Rs. 11,34,000/-). Besides, the Tribunal has awarded a sum of Rs. 25,000/- towards funeral expenses; Rs.1,00,000/- each, to the father and mother, for loss of love and affection and a sum of Rs.50,000/- to the sister of the deceased for having lost her brother's affection. In all, the Tribunal has awarded, a sum of Rs.14,09,000/- which, in our considered view, cannot be stated to be excessive. We are, therefore, of the view that the amount awarded by the Tribunal is just and proper and the same is based on the oral and documentary evidence. Hence, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is dismissed. The appellant is directed to deposit the entire award amount, along with accrued interest, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the 1st and 2nd claimants, the father and mother of the deceased, are entitled to withdraw their respective share and the

proportionate interest and costs as fixed by the Tribunal. The Tribunal, shall deposit the minor's share in fixed deposit with a nationalised bank till she attains majority and the mother of the minor claimant is entitled to withdraw the accrued interest once in three months directly from the bank.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

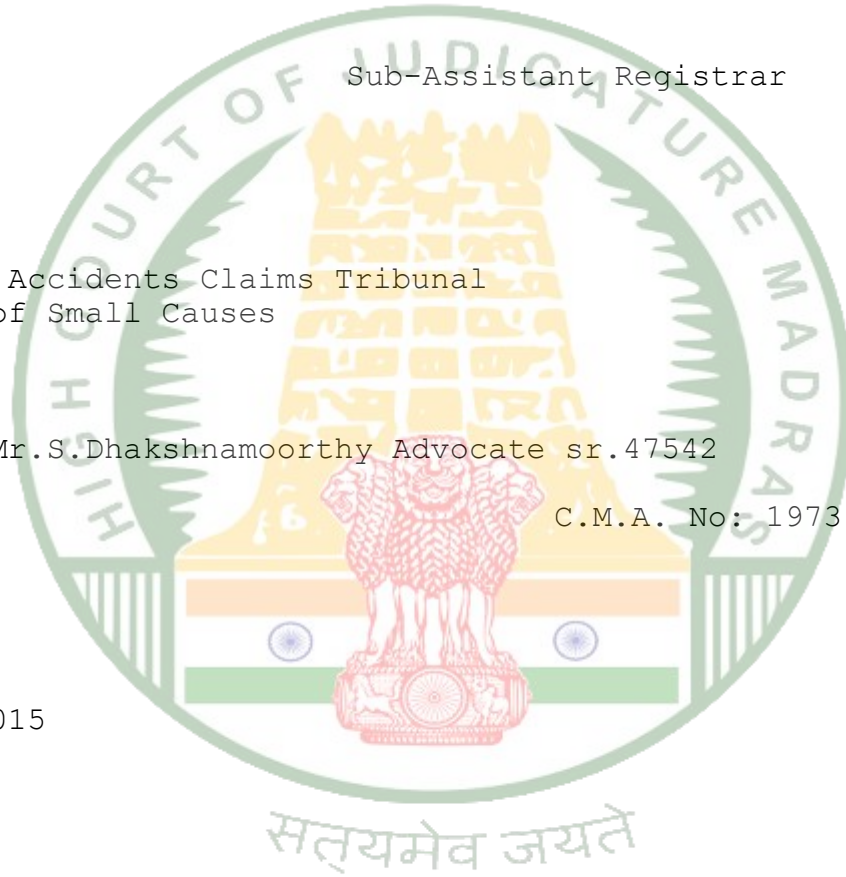
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To

The Motor Accidents Claims Tribunal
II Court of Small Causes
Chennai.

+1 cc to Mr.S.Dhakshnamoorthy Advocate sr.47542

C.M.A. No: 1973 of 2015

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