

In the High Court of Judicature at Madras

Dated :: 24.08.2015

Coram :

The Hon'ble Mr. Justice R. Sudhakar

Civil Miscellaneous Appeal
No. 509 of 2014

New India Assurance Company Ltd.,
No: 45, Moore Street
Chennai - 1.

... Appellant/Respondent II

-vs-

1. Mrs. Prabavathy
W/o. Sachithanandam

...Respondent-I/Petitioner-I

2. Mrs. Narasammal
W/o. Venkatesa Pillai

both residing at
No: 72 Subramaniam Street
Venkatapuram
Chennai - 53.

...Respondent-II/ Petitioner-II

3. R. Ramasamy
No: 7 Compounder Street
Pollachi.

...Respondent-III/Respondent-I

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 25.03.2013 passed in M.C.O.P. No. 382 of 2005 on the file of the Motor Accidents Claims Tribunal (II Additional District Judge) at Poonamallee, Chennai.

For appellant : Mr.J. Chandran

J U D G E M E N T

The New India Assurance Company is the appellant in the above appeal challenging the award and decree dated 25.03.2013 passed in M.C.O.P. No. 382 of 2005 on the file of the Motor Accidents Claims Tribunal (II Additional District Judge) at Poonamallee, Chennai.

2. It is a case of fatal accident which occurred on 21.07.2000 in which one Sachithanandam, aged 42 years died. According to the claimants, wife and mother of the deceased Sachithanandam respectively, on 21.07.2000, at about 11.00 a.m., when Sachithanandam was riding his tri-cycle by the western side of Jawaharlal Nehru 100 feet road from South to North, the lorry bearing registration No: TN-41-H-3666 driven by its driver in a rash and negligent manner, endangering the public safety, from the same direction dashed against the tri-cycle from the backside and caused the fatal accident. According to the claimants, the deceased was employed as Loadman cum delivery man with M/s. Vasantha Malini Trading Corporation, Chennai, and earning a sum of Rs. 200/- per day. They restricted their claim to a sum of Rs. 10,00,000/- as compensation from both the respondents, the 1st respondent being the owner and the 2nd respondent being the insurer of the vehicle.

3. In support of the claim, the claimants had examined P.Ws.1 and 2 and marked Exs.P-1 to P-3, the details of which are as follows:-

Ex.P-1 is the copy of the F.I.R.

Ex.P-2 is the copy of Post Mortem Certificate

Ex.P-3 is the legal heir certificate

Neither any witness nor any document was marked on behalf of the respondents before the Tribunal.

4. Though the appellant / insurer contended that the driver who drove the lorry which caused the accident was not possessed with a valid driving licence and hence, the appellant cannot be asked to compensate the loss suffered by the claimants, the finding of the Tribunal on this aspect is that the appellant / insurer has not let any oral and documentary evidence to prove that the driver of the lorry was not possessing a valid and effective driving licence to drive the lorry and hence, both the respondents are jointly and severally liable to pay the claim of the claimants. This Court also concurs with the said finding rendered by the Tribunal. The finding of negligence on the part of the driver of the offending vehicle who is responsible for the accident is not seriously disputed and therefore, such finding is confirmed. The appeal is filed mainly challenging the quantum of compensation.

5. According to the claimants, the deceased was working as a Loadman cum delivery man with M/s. Vasantha Malini Trading Corporation, Chennai. The Tribunal, considering the deceased as a collie, has fixed his monthly income at Rs. 6,500/- per month and after deducting one third had taken a sum of Rs. 4,300/- as

his contribution to the family. By adopting 16 as multiplier, the loss of income is arrived at a sum of Rs. 8,25,600/- (Rs.4,300/- x 12 x 16). Further, towards loss of consortium a sum of Rs. 5,000/- is awarded to the wife and a sum of Rs. 5,000/- is awarded to the mother towards loss of love and affection. A sum of Rs.5,000/- each is awarded towards funeral expenses and transport expenses. In all, the Tribunal had granted a sum of Rs.8,45,600/- as compensation with 7.5% interest. The amount awarded under all the aforesaid heads cannot be said to be on the excessive side. The deceased was aged 45 years at the time of accident and he was the sole bread winner of the family. After the accident, both the women, the wife and the mother of the deceased, had to take care of themselves for rest of their lives.

6. Considering these facts, this Court is of the view that the award passed by the Tribunal is just and reasonable compensation and does not require any reduction or modification and accordingly, it is confirmed. There is no dispute with regard to interest granted by the Tribunal at 7.5% and the same is confirmed.

7. Finding no merits, this Civil Miscellaneous Appeal is dismissed. Appellant is directed to deposit the entire award amount immediately if the same was not deposited already as ordered in M.P. No: 1 of 2014. Claimants are permitted to withdraw their respective share as apportioned by the Tribunal. There shall be no orders as to the costs.

sd/-

ASSISTANT REGISTRAR (CS-V)

/ TRUE COPY /

SUB-ASSISTANT REGISTRAR

सत्यमेव जयते

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To

1. Motor Accidents Claims Tribunal
II Additional District Judge
Tiruvallur at Poonamallee.

2. The Record Keeper,
High Court, Madras

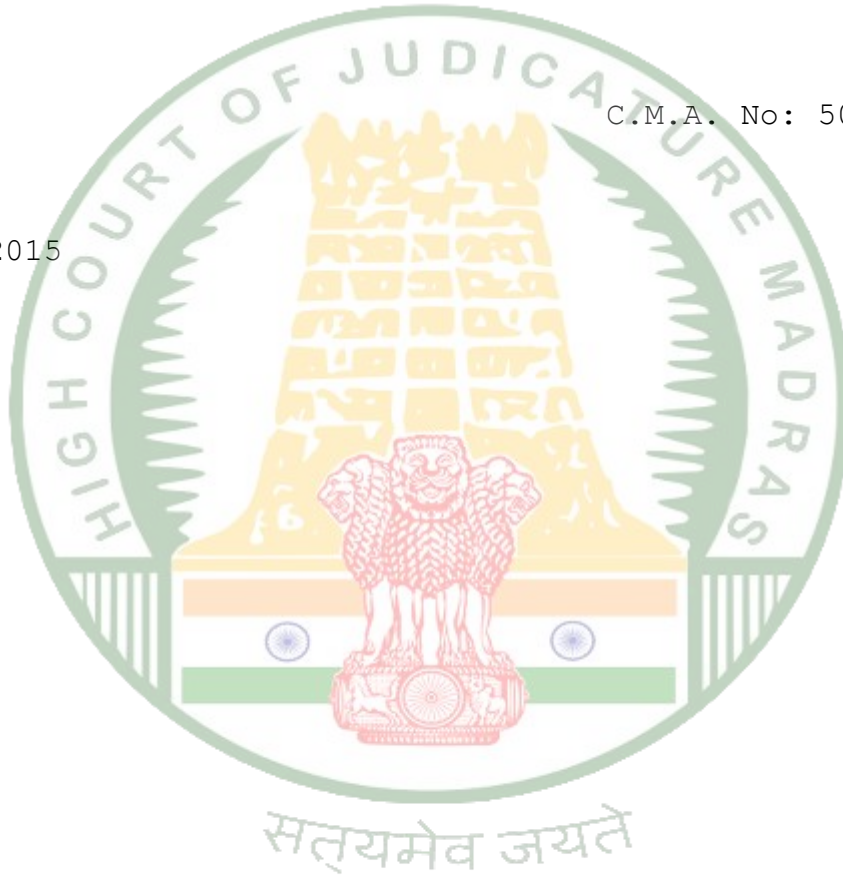
Copy to:

The New India Assurance Company Ltd,
No.45, Moore street, Chennai-.

+1 CC to Mr.J. Chandran Advocate. SR.NO. 45630

C.M.A. No: 509 of 2014

CO-RSK
JD 16/10/2015



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