

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUDHAKAR

C.M.A.No.1876 of 2013

and

M.P.No.1 of 2013

The Divisional Manager,
M/s.New India Assurance Co. Ltd.,
Divisional Office,
Thirupattur Taluk,
Vellore District.

... Appellant/Respondent-II

vs.

1.Thiru.Mahalingam
2.Tmt.Kasthuri
3.Thiru.M.Rajendran

..... Respondent-I/Petitioner-I
..... Respondent-II/Petitioner-II
..... Respondent-III/Respondent-I

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 30.09.2009 passed in M.C.O.P.No.264 of 2008 on the file of the Motor Accidents Claims Tribunal (Additional District Judge, Fast Track Court), Thirupattur.

For Appellant : Mr.J.Chandran

For Respondents : Mr.SathishKumar - R3
No appearance - R1 and R2

सत्यमेव जयते
J U D G M E N T

The New India Assurance Co. Ltd. filed the appeal challenging the award dated 30.09.2009 passed in M.C.O.P.No.264 of 2008 on the file of the Motor Accidents Claims Tribunal (Additional District Judge, Fast Track Court), Thirupattur.

2. It is a case of fatal accident. The accident took place on 04.08.2005 at 1.45 a.m. in Vellore to Arcot Main Road. When the deceased Saravanan, aged about 27 years, and others were travelling in the Maxi Cab van bearing Registration No.TN-37-z-5677 as hirers, the driver of the van drove the same in a rash and negligent manner and dashed against the lorry, which was parked on the road. As a result,

the deceased sustained injuries all over the body and thereafter died in the hospital. The father and mother of the deceased have filed the claim petition claiming a sum of Rs.15.00 lakhs. According to the claimants, the deceased was working as Scaffolder in Singapore and was earning a sum of Rs.50,000/- per month.

3. On the side of the claimant, the mother of the claimant was examined as P.W.1 and Exs.P.1 to P.6 were marked. On the side of the respondent, one Sarathy was examined as R.W.1 and the copy of the report of the Motor Vehicle Inspector was marked as Ex.R.1.

4. The Tribunal, based on the oral and documentary evidence, fixed the income of the deceased at Rs.5,000/- per month. After deducting 1/3rd towards personal expenses and by adopting multiplier 10, the Tribunal granted the following compensation with interest at 7.5% per annum:-

Sl.N o.	Particulars	Amount granted by the Tribunal
1	Loss of pecuniary benefit on account of the death of the deceased (Rs.3,500/- x 12 x 10 = Rs.4,20,000/-)	Rs.4,20,000/-
2	Funeral expenses	Rs. 5,000/-
3	Loss of love and affection	Rs. 10,000/-
	Total	Rs.4,35,000/-

5. The Tribunal based on the oral evidence of the witnesses, the F.I.R. and also taking note of the fact that there was no contra evidence on the side of the appellant herein with regard to the negligence came to conclusion that the accident had occurred only due to the rash and negligent act of the driver of the maxi cab van. Further the Tribunal observed that the appellant - Insurance Company has to pay the compensation to the legal heirs of the deceased and thereafter, the said compensation should be recovered from the respondent - owner of the van. On this issue, learned counsel for the appellant has no serious objection with regard to the finding of the Tribunal as no material has been placed to come to a different conclusion from that of the conclusion arrived by the Tribunal.

6. On the face of the award, there appears to be no infirmity in the quantum of compensation granted by the Tribunal and the interest also is not excessive as the accident happened in the year 2005 and the Tribunal awarded meagre sum towards loss of love and affection and funeral expenses.

7. Finding no merit, this Civil Miscellaneous Appeal is dismissed. It is stated that the appellant had deposited the entire compensation amount. The claimant is permitted to withdraw the amount

lying in deposit along with accrued interests and costs, if any. No costs. Consequently, connected miscellaneous petition is closed.

-sd/-

ASSISTANT REGISTRAR

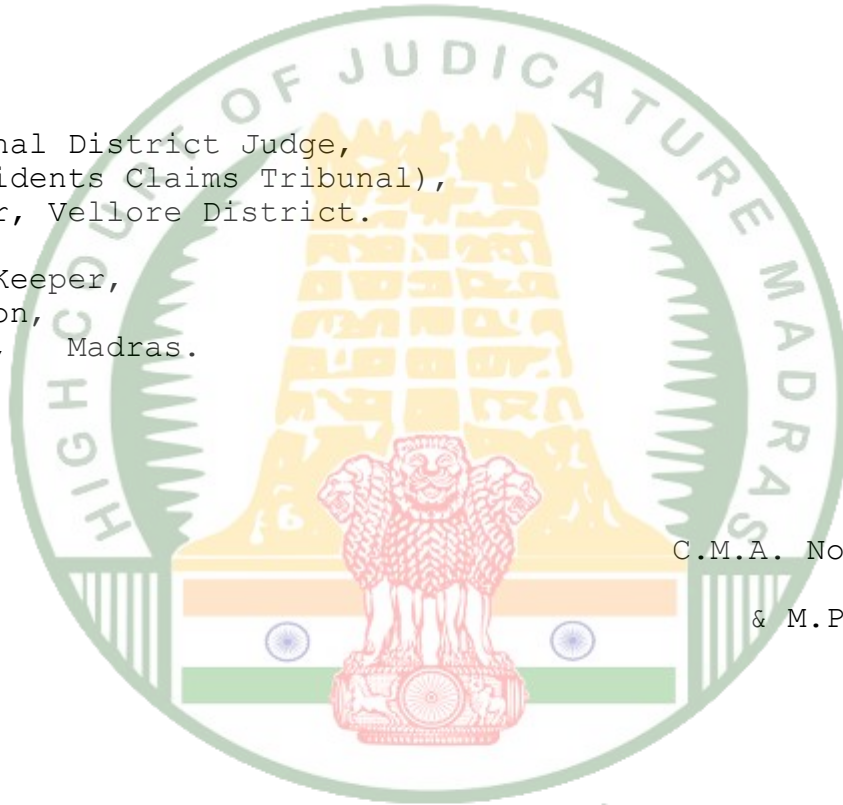
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SUB-ASSISTANT REGISTRAR

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To

- 1.The Additional District Judge,
(Motor Accidents Claims Tribunal),
Thirupattur, Vellore District.
- 2.The Record Keeper,
V.R. Section,
High Court, Madras.



C.M.A. No.1876 of 2013

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CO-GP

JD 14/10/2015

सत्यमेव जयते

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