

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.No.2894 of 2014

The Superintending Engineer
Tamil Nadu Electricity Board
Tiruvannamalai Electricity Distribution Circle
Vengikal, Tiruvannamalai Appellant/2nd Respondent

-vs-

1. Tmt.Kanchana, W/o (late) Chandirasekar
2. Minor Barath, S/o (late) Chandirasekar
3. Minor Vignesh, S/o (late) Chandirasekar
4. Thulasi Mudaliar, S/o (late) Chandirasekar
5. Visalactchi, W/o Thulasi Mudaliar
(Minors 2 & 3 are represented by Guardian
Mother Kanchana, 1st Respondent) Respondents/Petitioners
6. Sadasivam, S/o Kuppusamy Respondent/1st Respondent
7. The Divisional Manager
The New India Assurance Company Ltd.,
having their office at No.42, Big Street
Tiruvannamalai Respondent/3rd Respondent

Memorandum of Grounds of Civil Miscellaneous Appeal under
Section 173 of the Motor Vehicles Act, 1988 against the award
and decree dated 28.01.2013 made in M.C.O.P.No.1085 of 2009 on
the file of the Motor Accident Claims Tribunal, Principal
District Judge, Tiruvannamalai.

For Appellant :: Mr.V.Viswanathan

For Respondents :: Mr.R.Dineshkumar for R1 to R3
Mr.K.Padmanabhan for R7
No appearance for R4 to R6

JUDGMENT

The appeal has been brought by the Superintending Engineer,
Tamil Nadu Electricity Board, Tiruvannamalai Electricity
Distribution Circle, Vengikal, Tiruvannamalai questioning the
correctness of the impugned award dated 28.1.2013 passed by the

Motor Accident Claims Tribunal, Principal District Judge, Tiruvannamalai in M.C.O.P.No.1085 of 2009, directing the appellant-Owner, the sixth respondent-Driver and the seventh respondent-Insurance Company to pay the compensation amount of Rs.9,25,000/- with interest at the rate of 7.5% per annum from the date of petition till the date of deposit, jointly and severally, for taking away the life of the breadwinner of the claimants' family/respondents 1 to 5 herein.

2. Be that as it may, when the matter was taken up, the learned counsel for the seventh respondent/Insurance company fairly submitted that the entire compensation amount as per the award had already been deposited by the insurance company before the Tribunal and out of the said amount, 40% was allowed to be withdrawn by the claimants, namely, wife and parents of the deceased representing their share, except the share of the minors, and only 60% is remaining in deposit. He has further submitted that since the insurance company had already deposited the entire award amount, the appeal filed by the Tamil Nadu Electricity Board, the owner of the offending vehicle, is wholly misconceived.

3. I also find merits in his submissions. The reason is that when the insurance company, being the insurer of the offending vehicle, had deposited the entire award of compensation as ordered by the Tribunal and 40% thereof has also been permitted to be withdrawn by the claimants, namely, wife and parents representing their share, nothing survives in the civil miscellaneous appeal. Accordingly, the civil miscellaneous appeal is dismissed. Needless to state that the respondents 1, 4 and 5, namely, wife and parents of the deceased are permitted to withdraw the entire 60% remaining in deposit with accrued interest representing their share by moving appropriate applications before the Tribunal. However, the share of the respondents 2 & 3/minors shall remain in deposit till they attain majority and the first respondent-mother is entitled to withdraw the interest accrued periodically from the bank on behalf of the respondents 2 & 3/minors. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ss

To

1. The Principal District Judge
Motor Accident Claims Tribunal
Tiruvannamalai

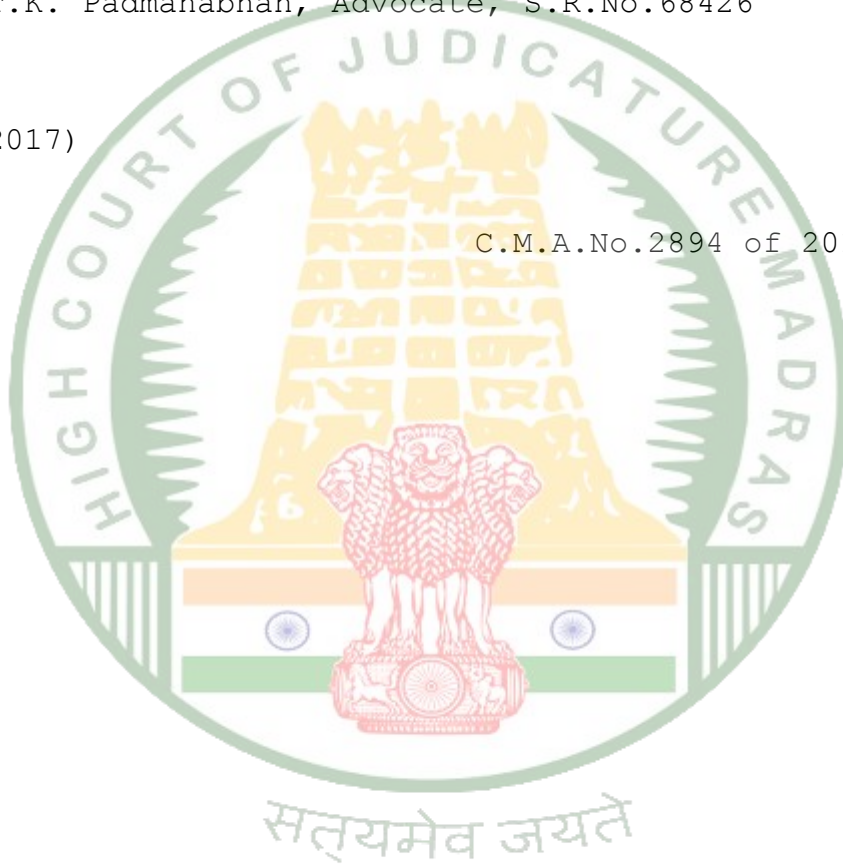
2 The Section Officer
VR Section, High Court, Madras

+lcc to Mr.V. Viswanathan, Advocate, S.R.No.67770

+lcc to Mr.K. Padmanabhan, Advocate, S.R.No.68426

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