



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2016

Coram:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.1484 of 2013

The Oriental Insurance Company Limited,
through its Divisional Manager,
6A, North Cotton Road,
Tuticorin.

.. Appellant/Respondent No.2

Vs.

1.Sangareswari
2.Minor Pandidurai
3.Minor Rajeswari
4.Alagammal
5.Azhisodaithavar

(Minor Respondents 2 and 3 are

represented through their mother,

natural guardian Respondent No.1)...Respondent 1 to 5/

Petitioner 1 to 5

6.Kathiresan

...Respondent No.6/

Respondent No.1

7.Ravichandran

.. Respondent No.7/

Respondent No.3

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.125 of 2007, dated 30.09.2011, on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Virudhunagar District at Srivilliputtur.

For Appellant : Mr.C.Ramachandran

For Respondents : Mr.M.Ashok kumar (for R1 to R5)

JUDGMENT

The appellant/Oriental Insurance Company has filed the present C.M.A(MD)No.1484 of 2013, challenging the award passed in MCOP.No.125 of 2007, dated 30.09.2011, on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Virudhunagar District at Srivilliputtur.



2.It is an unfortunate case of the fatal accident caused on account of an accident took place on 14.01.2007 around 7.45 a.m. on Srivilliputhur Madurai Main Road. The legal heirs of the deceased filed an application seeking compensation before the Motor Accidents Claims Tribunal, Principal District Judge, Virudhunagar District at Srivilliputtur in MCOP.No.125 of 2007. Considering the facts and circumstances of the case, the Tribunal awarded Rs.4,34,000/- as total compensation. Challenging the award, the appellant/Insurance Company has preferred the appeal on the ground that the deceased was a gratuitous passenger and therefore not entitled for any compensation from the appellant/Oriental Insurance Company.

3.On reading of the findings of the Tribunal, the PW1-wife of the deceased categorically deposed that the deceased was a cleaner and not a gratuitous passenger. When the wife of the deceased had categorically deposed and the same was not disputed by the appellant/Insurance Company before the Tribunal through any acceptable cross examination or through any other document, this Court is not inclined to consider the ground raised in the appeal that the deceased was a gratuitous passenger. Such being the factual position, the award of the Tribunal is in accordance with the procedure and there is no infirmity and hence, the order passed by the Motor Accidents Claims Tribunal, Principal District Judge, Virudhunagar District at Srivilliputtur in MCOP.No.125 of 2007, dated 30.09.2011, is confirmed and the Civil Miscellaneous Appeal is dismissed.

4.The learned counsel appearing for the appellant/Oriental Insurance Company represented that the entire award amount has already been deposited and the respondents 1 to 5/claimants are permitted to withdraw the entire award amount with accrued interest through RTGS, by filing necessary application before the Tribunal as per the ratio fixed by the Tribunal. In so far as, if there are any minors, the Tribunal is directed to deposit their respective portion in any one of the Nationalised Bank, till they attain majority. The guardian of the minor is permitted to withdraw the interest of the minor share once in three months directly from the bank. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/



To

The Motor Accidents Claims Tribunal,
Principal District Judge, Virudhunagar District
at Srivilliputtur.

WEB COPY

Copy to:

The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai

+1 cc to MR.C.Ramachandran, Advocate SR.No.74336

+1 cc to MR.M.Ashok Kumar, Advocate SR.No.74105

C.M.A (MD) No.1484 of 2013
28.11.2016

SMA/PM-AM1/24.01.2017:3P/5C