

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.07.2017

CORAM

THE HONOURABLE MS. JUSTICE PUSHPA SATHYANARAYANA

C.M.A. No.167 of 2009

United India Insurance Co. Ltd.,
Salem Road, Rasipuram

..Appellant/3rd respondent

Versus

1. Vellachi@Dhanalakshmi

2.Minor Sathiyaraj

3. Minor Alaguraj

(Minors are represented by
their mother and next friend
Ist respondent herein)

..Respondents 1to3/
Petitioners 1to3

4.Annamalai

5.Rajasekaran

(set exparte in lower court)

..Respondents 4&5/
Respondents 1&2

Appeal filed under Section 173 of Motor Vehicle Accidents
Claims Tribunal against the order dated 31.01.2008 made in
M.C.O.P. NO. 131 of 2006 on the file of Motor Accident Claims
Tribunal (Subordinate Judge) Attur.

For Appellant : Mr.T.Ravichandran

For Respondents: Mr. R.Neelakandan (R1 to R3)
R4 and R5 (exparte before the
Lower Court)

J U D G M E N T

Challenging the liability fixed by the Claims Tribunal, in
M.C.O.P.No.131 of 2006, dated 31.01.2008, the Insurance Company
has filed this Civil Miscellaneous Appeal.

2. One Theerthan, aged 40 years, a Cooly earning a sum of
Rs.4,000/- per month died in an accident that occurred on
24.07.2006. Hence, his Legal representatives viz., his wife
and sons filed a claim petition in M.C.O.P.No.131 of 2006,
claiming compensation for a sum of Rs. 10,07,500/- (Rupees Ten
Lakhs Seven thousand five hundred only). The Claims Tribunal,
on consideration of oral and documentary evidence has awarded a
sum of Rs.3,70,000/- (Three Lakhs Seventy Thousand only), with
interest @ 7.5% per annum from the date of petition till the
date of deposit. The break-up details of the same are as under:

Loss of earnings (2500x12x16-1/3)	-	Rs.3,20,000/-
Funeral expenses	-	Rs. 4,000/-
Transport expenses	-	Rs. 1,000/-
Love and affection	-	Rs. 20,000/-
Loss of consortium	-	Rs. 25,000/-
		Rs.3,70,000/-

3. The learned counsel for the appellant would submit that the Claims Tribunal has erred in considering the fact that the deceased was a gratuitous passenger of lorry and hence the Insurance Company is not liable to pay compensation.

4. A perusal of the award passed by the Claims Tribunal would go to show that the Claims tribunal, on consideration of evidence of P.W.1- the wife of the deceased who deposed that the driver of the lorry drove the vehicle in a rash and negligent manner and caused the accident and on a careful perusal of Ex.P1- Copy of FIR, Ex.P3- Copy of Charge Sheet, Ex.P4- Copy of Motor Vehicle Inspector's report and Ex.P5- copy of rough sketch has rightly come to the conclusion that the accident occurred only due to rash and negligent driving of the driver of the lorry.

5. In view of the same, I do not find any reason to interfere with the award passed by the Claims tribunal, dated 31.01.2008, made in MCOP No.131 of 2006.

6. In the result, this appeal is dismissed, confirming the Judgment and Decree of the claims Tribunal in M.C.O.P.No.131 of 2006, dated 31.01.2008. The Claimants are entitled to the award amount as per the apportionment made by the Tribunal. The Insurance Company is directed to deposit the award amount, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the first claimant is permitted to withdraw the same. The share of the minor claimants are ordered to be deposited in any of the Nationalised Banks, as ordered by the Tribunal, in a Fixed deposit scheme, till the minors attain majority and the first claimant is entitled to withdraw the interest, once in three months. No costs.

Sd/-

Assistant Registrar(CS)

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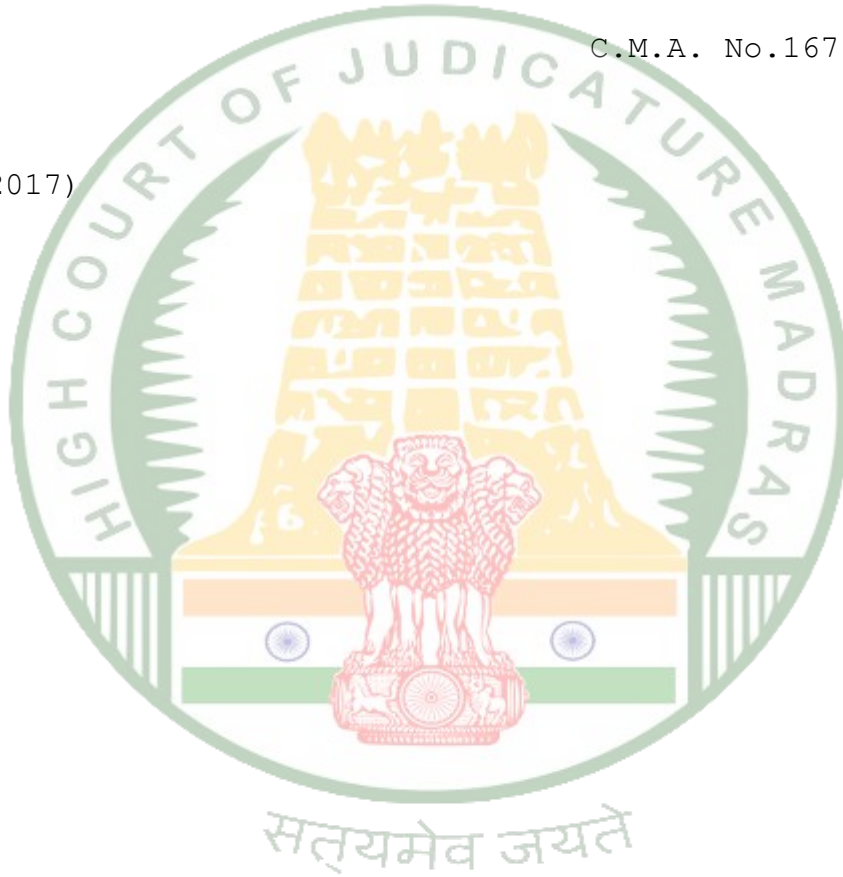
The Motor Accident Claims Tribunal,
(Subordinate Judge), Attur.

+ 1 cc to Mr. T. Ravichandran, Advocate Sr.51494

+ 1 cc to Mr. R. Neelakandan, Advocate SR.51633

C.M.A. No.167 of 2009

RJ (CO)
EU (03/10/2017)



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