

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2017

CORAM : THE HON'BLE Mr.JUSTICE N.SESHASAYEE

C.M.A.No.829 of 2004

National Insurance Company Limited,
Villupuram. .. Appellant/2nd Respondent

Vs

1.Vijaya
2.Minor Radhika
3.Minor Senthamilselvi
4.Thamayanthi
5.T.Sadamurthy Respondent1 to 4/Claimants
5th Respondent/1st Respondent
(Minors2 & 3 are represented by 1st respondent)

Prayer : Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act against the judgment and decree dated 12.12.2002 made in MCOP.No.25 of 2002 on the file of the Motor Accident Claims Tribunal (Additional District Judge cum Chief Judicial Magistrate) at Villupuram.

For Appellant : Ms.Sreevidhya
For Respondents : Ms.V.Srimathi [R1 to R4]

JUDGMENT

The appellant herein who is the second respondent before the Tribunal challenges the award passed in MCOP.No.25 of 2002 on the file of the Motor Accident Claims Tribunal (Additional District Judge cum Chief Judicial Magistrate) at Villupuram.

2. In a road accident that took place on 13.12.1998, a tractor bearing Registration No.TN-F-8608 capsized, owing to which, one Lakshmanan died. He is stated to have accompanied the goods carried in the tractor. Seeking compensation of Rs.10,80,000/- on various pecuniary and non-pecuniary heads, his legal representatives had approached the Tribunal and the Tribunal has passed an award for Rs.2,71,200/- payable with interest @ 9%.

3.The learned counsel for the appellant argued that even though the deceased was claimed to have travelled along with the goods, the investigation report of the investigator made available on record as Ext.B-1 discloses that he has travelled only as an unauthorised loadman.

4. Notwithstanding the argument of the learned counsel for the appellant, perusal of the evidence on record does not indicate that the deceased had travelled as a gratuitous passenger in the tractor. Effectively there is no contra evidence to indicate that the deceased travelled as an unauthorised passenger in the tractor. Even if Ext.B-1 investigation report is perused, it does not make a statement that the deceased has travelled only as a gratuitous passenger.

5. In the result, I find no merit in the appeal and the same is dismissed without costs. The learned counsel for the appellant submitted that the entire amount has been deposited and the claimants are entitled to withdraw whatever that lies in the account with all accrued interest.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

1.The Chief Judicial Magistrate
Additional District Judge cum
Motor Accident Claims Tribunal
Villupuram.

2.The Section Officer
VR Section,
High Court, Madras.

+1cc to Mr.R. Sreevidhya, Advocate, S.R.No.260
+1cc to Mr.V. Raghavachari, Advocate, S.R.No.44

sv (CO)
md(14/03/2017)

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