



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.09.2017

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.1927 of 2013

and

C.M.P. (MD)No.8503 of 2017

and

M.P(MD)No.3 of 2013

The Branch Manager,
National Insurance Company Limited,
North Car Street Anguvilas Building,
Nagercoil, Agastheeswaram Taluk,
Kanyakumari District.

... Appellant /Respondent No.3

Vs.

1.D.Saroja	... Respondent No.1/Petitioner No.1
2.D.Jabaraj	... Respondent No.2/Petitioner No.2
3.D.Nesaraj	... Respondent No.3/Petitioner No.3
4.D.Jeevaraj	... Respondent No.4/Petitioner No.4
5.Rosammal	... Respondent No.5/Petitioner No.5
6.B.Vinesh	... Respondent No.6/Respondent No.1
7.K.P.Balakrishnan	... Respondent No.7/Respondent No.2

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.43 of 2009 dated 25.07.2012 by the Motor Accidents Claims Tribunal, Sub Court, Kuzhithurai.

For Appellant : Mr.D.Sivaraman

For R-1 to R-4 : Mr.Saji Bino

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company against the judgment and decree made in M.C.O.P.No.43 of 2009 dated 25.07.2012 by the Motor Accidents Claims Tribunal, Sub-Court, Kuzhithurai.

2. It is a case of fatal accident, which took place on 14.07.2008 at about 5.45 p.m., at Arumanai -Melpuram road near SNS Textiles.

3. It is the case of the claimants before the Tribunal that on the date of accident, when the deceased was going home, the two wheeler bearing registration No.T.N.75 5977 was driven by its rider in a rash and negligent manner and dashed against the deceased and caused the accident. In the said accident, the deceased sustained grievous injuries and thereafter succumbed to the injuries.

side of t
and man



the Tribunal is very low and if the latest judgments are applied, the compensation will be more. Therefore, I do not want to interfere with the award passed by the Tribunal.

13. In the result, this Civil Miscellaneous Appeal is dismissed and the appellant/Insurance Company is directed to pay the amount awarded by the Tribunal at the first instance and then, recover the same from the respondent Nos.6 and 7. The appellant/Insurance Company shall deposit the award amount to the credit of M.C.O.P., on the file of claims Tribunal within a period of eight weeks from the date of receipt of a copy of this order and in the later stage, the appellant/Insurance Company is entitled to recover the same from the owner of the vehicle, by way of Execution Petition, without actually filing a suit as held by Hon'ble Apex Court in the judgment reported in **2004(2)CTC 464 (Oriental Insurance Co., Ltd., vs. Shri Nanjappan and others)**. On such deposit being made, the respondents 1 to 4/claimants 1 to 4 are permitted to withdraw their respective shares as apportioned by the Tribunal, with proportionate interests and costs. Since the fifth respondent/mother of the deceased died, her share may be apportioned equally to the respondent Nos.1 to 4. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To,

1.The Motor Accidents Claims Tribunal, Sub Court,
Kuzhithurai.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.J.ASHOK, Advocate SR.No.80612
+1cc to M/S.D.SIVARAMAN, Advocate SR.No.80646

pm

MAS/JC/SAR2:09.11.2017:3P-5C

C.M.A(MD)No.1927 of 2013

and

C.M.P. (MD)No.8503 of 2017 and

MP(MD)No.3 of 2013

22.09.2017