



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.76 of 2015

1.M.Pandi
2.Minor Mari Chelvi
3.Minor Ravi Kumar
Minor rep. by their father
1st appellant M.Pandi ... Appellants/Petitioners

Vs.

1.R.Ashok
2.The Branch Manager,
New India Assurance Co. Ltd.,
No.96, Bharathiyar Street,
Sathoor.
3.The Managing Director,
Tamil Nadu State Transport Corporation,
Madurai DivisionV,
Virudhunagar. ... Respondents/Respondents

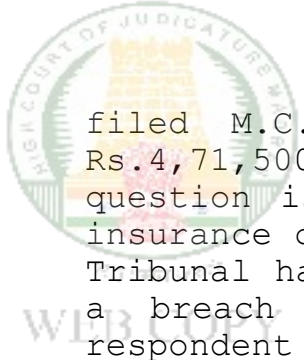
Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 20.07.2011 made in M.C.O.P.No.5 of 2008 on the file of the Motor accident Claims Tribunal (Sub Court), Sivakasi insofar as it relates to quantum of compensation granted by the Tribunal.

For Appellant : Mr.S.Anand Chandrasekar
For Respondent : Mr.C.Murugavel for R1
Mr.P.Prabakaran for R3
No appearance for R2

JUDGMENT

The claimants have filed this appeal seeking modification of award dated 20.07.2011 made in M/C.O.P.No.5 of 2008 on the file of the Sub Court, Sivakasi.

2.On 28.06.2003 Thangeshwari, the wife of the first appellant and mother of the second and third appellants herein was travelling in the van belonging to her employer viz., the first respondent herein. There was a collision involving the van and the bus belonging to the third respondent Corporation. Thangeshwari suffered injuries and died on 02.07.2003. The claimants herein



filed M.C.O.P.No.5 of 2008. The Tribunal awarded a sum of Rs.4,71,500/-. There is no dispute regarding the quantum. The question is whether the Tribunal was justified in exonerating the insurance company and fastening liability only on the employer. The Tribunal has held that the vehicle being a goods vehicle, there was a breach of policy condition and that therefore, the first respondent employer alone was liable to pay compensation to the claimants.

3.The learned counsel appearing for the appellant would point out that the admitted position is that the deceased was a worker travelling in the goods vehicle. Therefore, the case on hand is very much covered by the terms of the policy. I find force in the said submission. Since the deceased had travelled in the vehicle owned by the first respondent and insured with the second respondent, only as the employee of the owner of the vehicle, the second respondent is obliged to satisfy the award. This Court therefore modifies the award dated 20.07.2011 in M.C.O.p.No.5 of 2008 on the file of the Sub Court, Sivakasi by directing the second respondent herein to pay the award amount. In other aspects, the award of the Tribunal is confirmed. The second respondent is directed to deposit the award amount within 12 weeks from the date of receipt of a copy of this order along with interest @ 7.5.% per annum from the date of petition till the date of realization. The claimants are entitled to withdraw the said amount in the same proportion as fixed by the Tribunal.

4.The Civil Miscellaneous Appeal is allowed as indicated above. No costs.

Sd/-

Assistant Registrar (CS-II)

/True copy/

Sub Assistant Registrar

To

The Subordinate Judge, Motor accident Claims Tribunal, Sivakasi

Copy to:

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

+1cc to Mr.P.PRABHAKARAN, Advocate, SR.83366
+1cc to M/S.SARVABHAUMAN ASSOCIATES, SR.83247
+1cc to Mr.C.MURUGAVEL, Advocate, SR.83234

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