

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2422 of 2010

National Insurance Company Limited,
34, Kamaraj Bazaar, Bodinaickennoor
Theni District.

...Appellant/II Respondent

..Vs..

1.Amaravathy
2.P.Saravanan
3.Elayaraja
4.Sivasakthi
5.Kavitha
6.Kanthyee
7.S.Mathammal
(7th Respondent have been set exparte
before the Tribunal)

...Respondents 1 to 6/Petitioner
...7th Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree of the learned Motor Accidents Claims Tribunal [I Additional District Judge], Salem in M.C.O.P.No.2154 of 2005 dated 04.12.2009.

For Appellants : Mrs.R.Srividhya

For Respondents : Mr.R.Syed Mustafa for R1-R6
R7 - ex-parte

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JUDGMENT

The appellant is the second respondent in M.C.O.P.No.2154 of 2005 dated 04.12.2009, on the file of the Motor Accidents Claims Tribunal, I Additional District Judge, Salem. The respondents/claimants filed a claim petition before the trial court claiming a compensation of Rs.15,00,000/- for the death of one Palanisamy in a road accident. The first claimant is the wife of late

Palanisamy, while claimants 2 to 5 are the sons and daughters of late Palanisamy. The claimant no. 6 is the mother of late Palanisamy.

2.The brief facts of the case of the respondents/claimants is as follows:

On 26.09.2005, Palanisamy (since deceased) was riding his motorcycle TVS Star from Dharmapuri to Omalur. When he was nearing Kamalapuram Airport 'X' road, a speeding lorry bearing Registration No. TN 30 Z 2194 belonging to the first respondent hit the two wheeler, as a result of which, the deceased Palanisamy was thrown out of the vehicle and died on the spot.

3.According to the claimants, the deceased was aged 55 years on the date of accident and that he was working as an office assistant in the Commercial Tax Office, Omalur, Salem, earning a sum of Rs.7,500/- per month.

4.The learned I Additional District Judge, Salem, after analysing the entire evidence on record, awarded a compensation of Rs.6,41,360/- together with interest at the rate of 7.5% per annum to the claimants. Contending that the quantum of compensation awarded by the trial court is on the higher side, the national insurance company has filed the present appeal under Section 173 of the Motor Vehicles Act.

5.A perusal of the records shows that the claimants have adduced acceptable evidence to show that the deceased was working as an office assistant in the Commercial Tax Office, Omalur, Salem on the date of accident. The claimants also filed salary slips which were marked as Ex.P5 and Ex.P6. Therefore, the trial court fixed the monthly income of the deceased as Rs.7393/-. Since, there were four persons depending on the income of the deceased Palanisamy, the trial court deducted 1/4th of his income towards personal expenses and awarded a sum of Rs.5,98,860/- towards loss of dependency. The trial court also awarded a sum of Rs.2,500/- for transportation and funeral expenses and a sum of Rs.10,000/- for loss of consortium of the first claimant. Apart from that, a sum of Rs.30,000/- is awarded for loss of love and affection.

6.Infact, if the principle laid down in National Insurance Co. vs Pranay sethi and others reported in 2017 (2) TNMAC 601, the amount of compensation would be more than the award passed by the trial court. Since, the claimants did not file any appeal/cross-objections for enhancing the award amount, I do not see any reason to interfere with the findings recorded by the trial court. Hence, the decree and judgment passed by the learned Motor Accidents Claims Tribunal, I Additional District Judge, Salem in M.C.O.P.No.2154 of 2005 dated 04.12.2009 is

upheld.

7.In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

mbi

To

The I Additional District Judge,
Motor Accidents Claims Tribunal, Salem.

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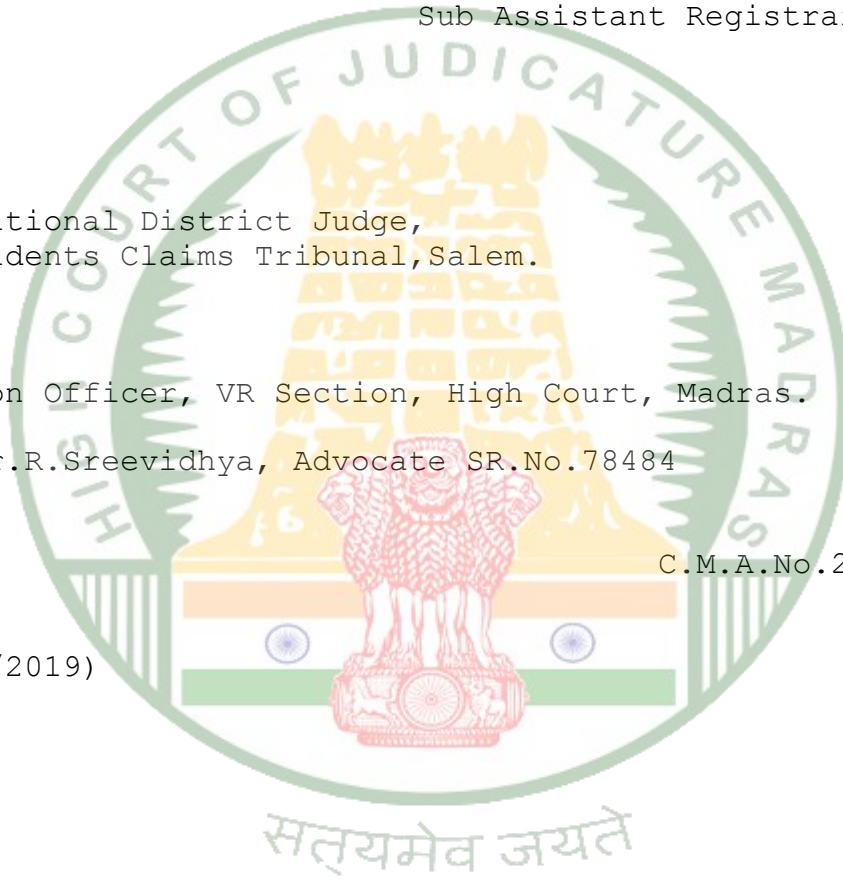
The Section Officer, VR Section, High Court, Madras.

+lcc to Mr.R.Sreevidhya, Advocate SR.No.78484

C.M.A.No.2422 of 2010

MP (CO)

GMV (08/01/2019)



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