

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2311 of 2015
and M.P.No.1 of 2015

The Branch Manager,
M/s.New India Assurance Company Limited,
Having its Office at,
No.110, A.P.V.Mansions,
Gandhi Market Road,
Arni, Tiruvannamalai District. ... Appellant/Respondent II

Vs.

1.Mrs.S.Uthiriyam

2.Mr.Ramesh

3.Mr.Suresh

4.S.Velanganni ... Respondents 1 to 4/Petitioner

5.Mr.S.Rajkumar ... 5th Respondent/1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 12.01.2015 made in M.C.O.P.No.55 of 2011 on the file of the Motor Accidents Claims Tribunal, Arni at Tiruvannamalai District.

For Appellant : Mr.J.Chandran

For RR1 to 5 : Served. No Appearance

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J U D G M E N T

This Civil Miscellaneous Appeal is filed against the judgment and decree dated 12.01.2015 made in M.C.O.P.No.55 of 2011 on the file of the Motor Accidents Claims Tribunal, Arni at Tiruvannamalai District.

2.The respondents 1 to 4 are the claimants in M.C.O.P.No.55 of 2011 on the file of the Motor Accidents Claims Tribunal, Arni

at Tiruvannamalai District. They have filed the above claim petition claiming a sum of Rs.10,00,000/- as compensation for the death of one Shanmugam, who died in the accident that took place on 18.02.2011.

3.The Tribunal considering the pleadings, oral and documentary evidence held that the accident occurred only due to the rash and negligent driving by the driver of the car belonging to the fifth respondent and as the insurer, the appellant is liable to pay the compensation to the respondents 1 to 4 and awarded a sum of Rs.2,41,000/- as compensation to them.

4.Against the said award dated 12.01.2015 made in M.C.O.P.No.55 of 2011, the appellant/Insurance Company has come out with the present appeal challenging the award fastening the liability on the Insurance Company.

5.The learned counsel appearing for the appellant contended that the deceased travelled in a private car and the accident occurred only due to the rash and negligent driving by the driver of the car. In view of the same, the deceased is the occupant of the car. The respondents 1 to 4, who are the legal heirs of the deceased are not entitled to claim any compensation. Therefore, he prayed for setting aside the award passed by the Tribunal.

6.Though notice was served on the respondents and their names are printed in the cause list, there is no representation on behalf of them either in person or through counsel.

7.Heard the learned counsel appearing for the appellant and perused the materials available on record.

8.From the materials available on record, it is seen that RW1/Maivannan, has admitted in his evidence that the policy issued by the appellant is comprehensive policy. It is well settled that when owner of the car has taken comprehensive policy, it covers occupant of the car and that Insurance Company is liable to pay the compensation. In view of the above, there is no reason warranting interference by this Court with the said findings of the Tribunal. The amount awarded by the Tribunal under different heads are not excessive.

9.In the result, the Civil Miscellaneous Appeal is dismissed. The appellant/Insurance Company is directed to deposit entire amount awarded by the Tribunal along with accrued interest and costs, less the amount deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the respondents 1 to 4/claimants are permitted to withdraw the entire award amount as per the apportionment made by the Tribunal, less the amount, if any,

already withdrawn. No costs.
Miscellaneous Petition is closed.

Consequently, connected

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

kj/arb

To

1.The Presiding Judge,
The Motor Accidents Claims Tribunal,
Arni, Tiruvannamalai District.

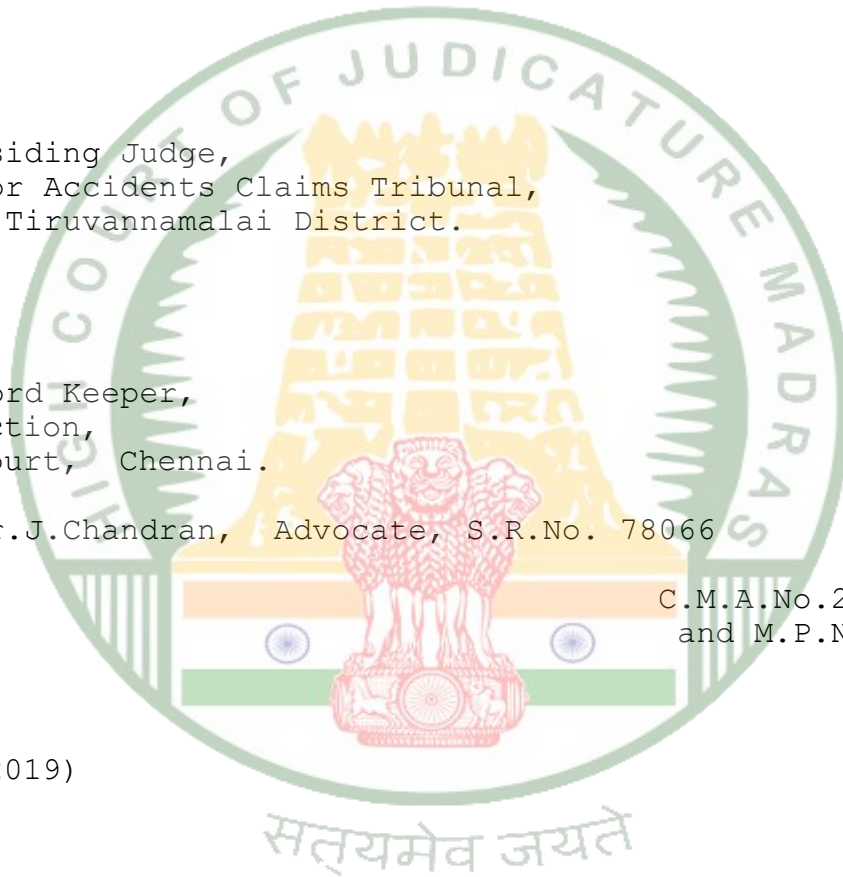
Copy To

The Record Keeper,
V.R.Section,
High Court, Chennai.

+1cc to Mr.J.Chandran, Advocate, S.R.No. 78066

C.M.A.No.2311 of 2015
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SR(CO)
GN(04/01/2019)



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