

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.2811 of 2018

and

C.M.P.No.21451 of 2018

M/s.Reliance General Insurance Company Limited,
3rd Floor, No.408,
Perundurai Road, Erode. ... Appellant/2nd Respondent

Vs.

Mr.Muthumani (Died)

1.Tmt.Mariyammal

2.Santhi

3.Jayabharathi

4.Thangavel

5.Settu

... Respondents 1 to 4/Petitioners

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 15.02.2018 made in M.C.O.P.No.467 of 2011, on the file of Motor Accidents Claims Tribunal, Sub Court, Sankagiri.

For Appellant : Mr.M.B.Raghavan for
M/s.M.B.Gopalan Associates

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the judgment and decree dated 15.02.2018 made in M.C.O.P.No.467 of 2011, on the file of Motor Accidents Claims Tribunal, Sub Court, Sankagiri.

2.The appellant/Insurance Company is second respondent in M.C.O.P.No.467 of 2011, on the file of Motor Accidents Claims Tribunal, Sub Court, Sankagiri. Originally Muthumani filed the above claim petition claiming a sum of Rs.5,00,000/- as compensation for the injuries sustained by him in the accident. Pending claim petition, he died due to the injuries sustained in the accident that took place on 14.06.2011. The respondents 1

to 4 were brought on record as legal heirs of Muthumani.

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 motorcycle belonging to the fifth respondent and directed the appellant to pay a sum of Rs.8,30,000/- as compensation to the respondents 1 to 4 at the first instance and recover the same from the fifth respondent, owner of the vehicle.

4. Against the said award dated 15.02.2018 made in M.C.O.P.No.467 of 2011, the appellant has come out with the present appeal.

5. The learned counsel appearing for the appellant contended that the Tribunal failed to see that there is no nexus between the injuries sustained by the deceased and his death. No postmortem report was filed and marked by the respondent 1 to 4. The respondents 1 to 4 have failed to prove that death was only due to the injuries sustained by the deceased. The Tribunal passed the award on surmises and presumptions, without there being any evidence and prayed for allowing the appeal.

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

7. From the award of the Tribunal, it is seen that the Tribunal has framed a specific point for consideration as to "whether the deceased died due to the injuries sustained by him in the accident?". Originally the deceased filed the claim petition claiming compensation for the injuries sustained by him. Pending claim petition, he died. The respondents 1 to 4 were brought on record as legal heirs of the deceased. The Tribunal, considered the evidence with regard to injuries sustained by the deceased and nature of treatment taken by him. The Tribunal considering this fact and also the fact that the deceased died after 2 years and 5 months of accident, concluded that the deceased would not have died due to nature of grievous injuries sustained by him after 2 years and 5 months. The Tribunal after giving such a finding, has awarded compensation only for the injuries sustained by the deceased and for the death of the deceased. In view of the finding of the Tribunal that the deceased did not die due to the injuries sustained by him in the accident, this Civil Miscellaneous Appeal is liable to be dismissed as devoid of merits.

8. Accordingly, the award passed by the Tribunal is hereby confirmed and the Civil Miscellaneous Appeal is dismissed. The appellant/Insurance Company is directed to deposit the award amount along with interest and costs, less the amount already 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 are permitted to withdraw their share of the award amount along with proportionate interests and costs, on the basis of apportionment fixed by the Tribunal, less the amount if any, already withdrawn. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar (CS V)

True Copy

Sub-Assistant Registrar

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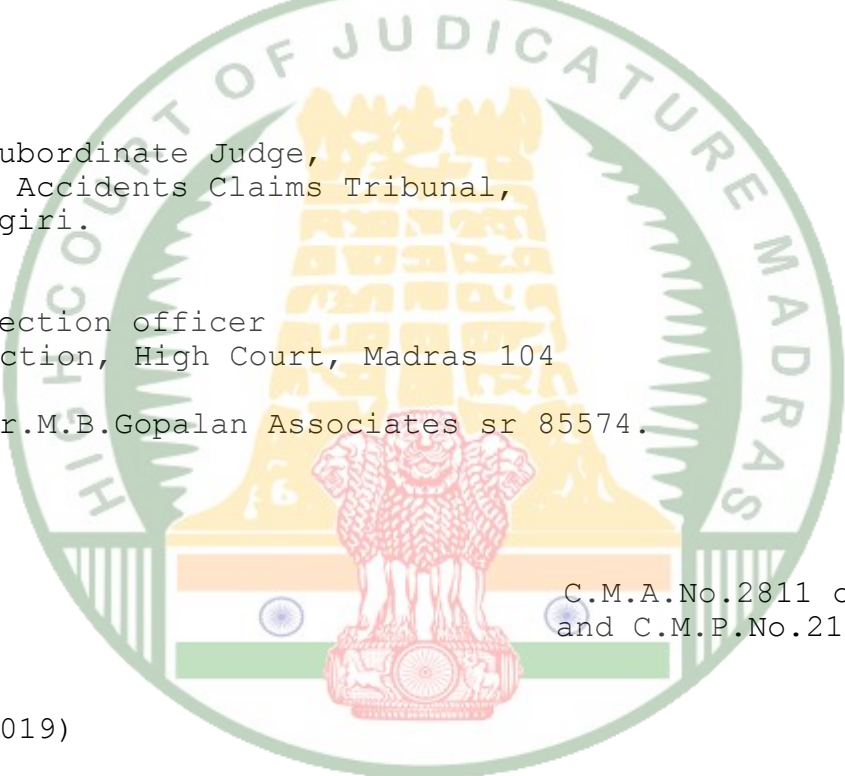
The Subordinate Judge,
Motor Accidents Claims Tribunal,
Sankagiri.

Copy to
The Section officer
VR Section, High Court, Madras 104

+1 CC to Mr.M.B.Gopalan Associates sr 85574.

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RK (CO)
SP(12/02/2019)



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