

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.1007 of 2004

The Oriental Insurance Co. Ltd.,
Gobichettipalayam.

...Appellant

.Vs.

1.S.P.Kuppusamy (Died)

2.P.S.Velusamy

3.M.Chellammal

4.Annapoorane

5.B.Thenmozhi

6.S.Mohanasundari

...Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 06.06.2002 in M.C.O.P.No.244 of 2001 on the file of the Motor Accident Claims Tribunal, Principal Sub Court, Gobichettipalayam.

For Appellant : Mr.M.L.Ganesh

For Respondents : No appearance for R1 to R3
Mr.Ma.Pa.Thangavel for R4 - R6

JUDGMENT

The appellant, Oriental Insurance Company Limited, is the third respondent in M.C.O.P.No.244 of 2001 on the file of the Motor Accident Claims Tribunal, Principal Sub Court, Gobichettipalayam. The first respondent filed the claim petition under Section 166 of the Motor Vehicles Act seeking compensation of Rs.4,00,000/- for the injuries sustained by him in a road accident on 21.07.2001.

2. The case of the claimant is that on 21.07.2001, he was riding a two wheeler bearing Registration No.TN 36 7820 near Gobichettipalayam bus stand and at about 11.30 a.m, a speeding bus bearing Registration No.TN 36 E 1968 belonging to the third respondent and insured with the present appellant, hit his two wheeler, as a result of which, he fell down and sustained injuries.

3. According to the claimant, the rash and negligent driving of the driver of the bus bearing Registration No.TN 36 E 1968 belonging to the third respondent was the cause of the accident and that since the said bus was insured with the present appellant, both the owner and the insurer of the bus are jointly and severally liable to pay compensation.

4. The second and third respondents remained absent before the Tribunal and therefore, they were set ex-parte. The appellant contested the claim petition. The learned Motor Accident Claims Tribunal / Principal Subordinate Judge, Gobichettipalayam after analysing the evidence on record, awarded a compensation of Rs.2,04,871/- together with interest at the rate of 9% per annum to the claimant. Aggrieved over the quantum of compensation awarded by the Tribunal, the appellant has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. During the pendency of the appeal, the claimant died. A memo along with legal heirship certificate was filed contending that the claimant is survived by his wife and two daughters. Both the counsels on record agreed that a compensation of Rs.1,30,000/- together with interest at the rate of 7.5% per annum can be awarded to the legal heirs of the claimant.

6. Heard Mr.M.L.Ganesh, learned counsel appearing for the appellant and Mr.Ma.Pa.Thangavel, learned counsel appearing for the respondents 4 to 6.

7. Considering the fact that the accident took place in the year 2001 and the appeal is also pending from the year 2003, I am of the opinion that granting award of Rs.1,30,000/- together with interest at the rate of 7.5% per annum to the legal heirs of the claimant would meet the ends of justice.

8. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed. No costs.

(ii) The Award passed by the Tribunal is scaled down to Rs.1,30,000/-.

(iii) The appellant, Oriental Insurance Company Limited, is directed to deposit the compensation amount i.e., Rs.1,30,000/- (less the amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.244 of 2001 on the file of the Motor Accident Claims Tribunal, Principal Sub Court, Gobichettipalayam within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the claimant's wife and two daughters are at liberty to withdraw the same after following due process of law. The apportionment is given below:

Wife - Rs.1,00,000/- with costs and interest

Two daughters - each Rs.15,000/-

14.10.2019

mtl
Index : Yes/No
Speaking / Non-speaking order

To

The Motor Accidents Claims Tribunal,
The Principal Subordinate Judge,
Gobichettipalayam

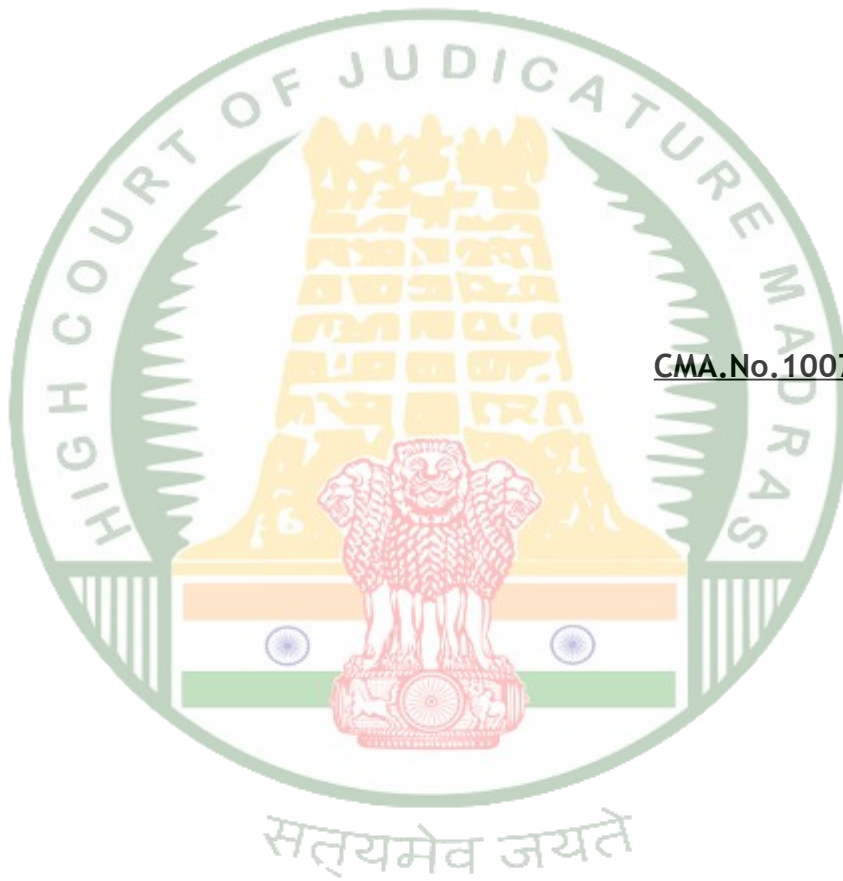


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R. HEMALATHA, J.

mtl



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