

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2481 of 2006
and C.M.P.No.9360 of 2006

The New India Assurance Company,
Coimbatore-12. ... Appellant /III respondent

Vs.

1.Selvi
2.Minor Manikandan
3.Minor Nagaraj
(Minors rep. by Guardian Punitha)
4.Punitha
5.B.S.Baby
6.M.Thiyagarajan ... Respondents 5 & 6/
Ist & 2nd Respondents

(As far as the respondents 1, 2 & 4 herein
are concerned, no award was passed
and respondents 5 & 6 herein were set
exparte in the O.P., hence notice to them
may be dispensed with)

Prayer: This Civil Miscellaneous Appeal is filed under Section
173 of Motor Vehicles Act, 1988, against the judgment and decree
dated 01.04.2004 made in M.A.C.T.O.P.No.623 of 1995 on the file
of the Motor Accident Claims Tribunal, III Additional Sub Court,
Coimbatore.

For Appellant : Mr.S.Jaysankar
For Respondent : No Appearance

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the
judgment and decree dated 01.04.2004 made in M.A.C.T.O.P.No.623
of 1995 on the file of the Motor Accident Claims Tribunal, III
Additional Sub Court, Coimbatore.

2. An accident took place on 06.06.1995 at about 9.00p.m, in
which, one Ranjithkumar, who was proceeding in his bicycle on

the left side of the road, was hit by the lorry bearing Registration No.TN 38/7450. Due to the said accident, the said cyclist died on the spot. Stating so, the legal heirs of the deceased filed a claim petition before the Claim Tribunal claiming a sum of Rs.3,00,000/- as compensation along with interest at 12% per annum.

3. The Tribunal, based on the evidence account and documents available on record, has fastened the liability on the driver of the lorry and the Insurance Company / appellant herein. The Tribunal has also quantified the compensation at Rs.1,00,000/- payable by the appellant herein to the third respondent alone. Aggrieved over the same, the appellant insurance company has filed the present appeal.

4. Heard the learned counsel appearing for the appellant/Insurance Company.

5. The learned counsel appearing for the appellant submitted that the Tribunal erred in awarding the compensation at the very higher rate. He further submitted that the Tribunal has committed serious error in awarding double compensation to the death of the person in a road accident.

6. A perusal of the award passed by the Tribunal would go to show that on the negligent aspect, it has taken note of manner of accident, the mode and nexus between the vehicle and the deceased on the spot and basing reliance upon Exs.P3, P4 and P5, has fastened the liability on the driver of the lorry, which in the considered view of the Court, cannot be said to be perverse or error and is well within the realm of probability of case, weightage of evidence and the settled principles of law and the same is hereby confirmed.

7. As far as quantum of compensation awarded by the claims Tribunal is concerned, it has to be pointed out that the Tribunal has awarded a compensation at Rs.1,00,000/- without any break up details. However, considering the materials and evidence adduced by the claimants, it could be inferred that for the death of a person, the award of a sum of Rs.1,00,000/- by the Tribunal, cannot be said to be on the higher side at any stretch of imagination. Further, the grounds raised by the appellant / Insurance Company are very vague.

8. In such view of the matter, this Court is of the view that the award passed by the claims Tribunal has to be confirmed and it is confirmed as such.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous

petition is closed. The appellant / Insurance Company is directed to deposit the award amount as ordered by the Tribunal with interest and costs, after deducting the amount if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. The third respondent, who was minor at the time of accident, would have attained majority by now. Hence, on such deposit being made, the third respondent is permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

srk / rst

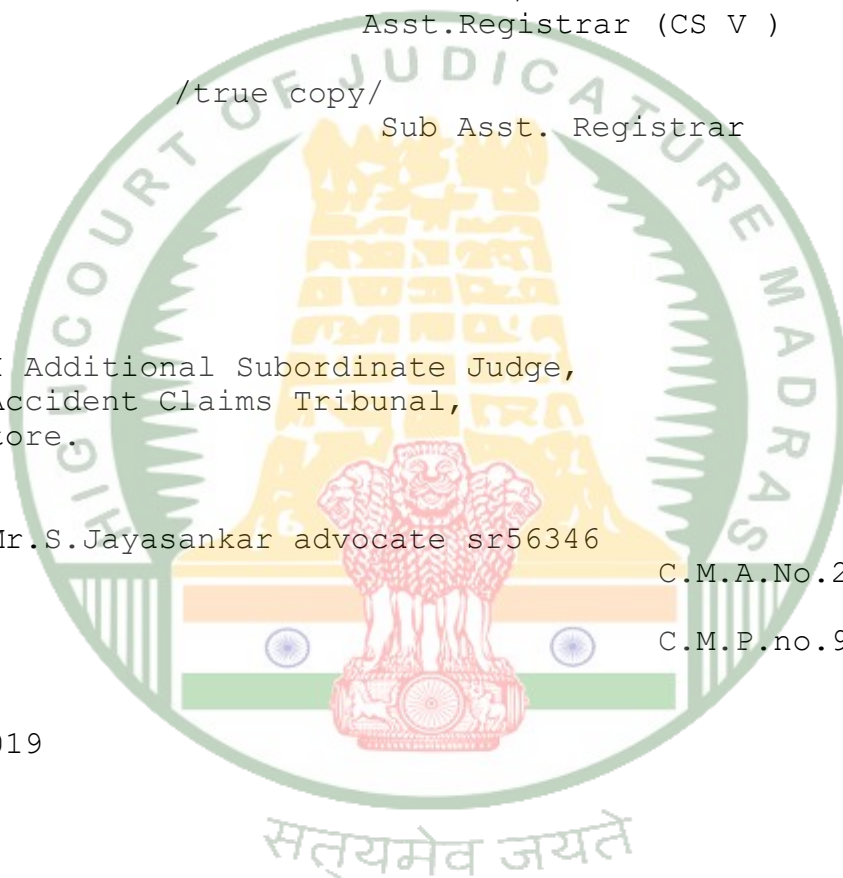
To

1.The III Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Coimbatore.

+1 cc to Mr.S.Jayasankar advocate sr56346

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