

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2508 of 2006
and
C.M.P.No.9432 of 2006

The Oriental Insurance Company Limited,
Salem-7 .. Appellant /2nd Respondent

Vs.

1.Minor.Thulasimanikandan
Minor represented by Court Guardian
Cum Uncle Sivasubramaniam 1st Respondent/Petitioner

2.V.Kalidoss - Lorry owner

3.Latha

4.United India Insurance Company Limited,
Branch Office, 19/2A,
Junction Main Road, Salem-4.

...2 to 4 Respondents/Respondents 1,3 & 4

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 12.07.2004 made in M.C.O.P.No.1084 of 1999 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate) Salem.

For Appellant	: Mr.S.Arun Kumar
For R1&R3	:No appearance
For R2	:Refused Tapal returned
For R4	:Mr.T.Ravichandran

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JUDGMENT

This Civil Miscellaneous Appeal has been filed against the order and Decree dated 12.07.2004 made in M.C.O.P.No.1084 of 1999 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate) Salem.

2. The averments made in the claim petition are

as follows:

(i) On 28.12.1998 at about 6.30 A.M, the deceased was travelling in the van as an occupant bearing Registration No.TN 27 K 1645 from Salem to Madras, when the van was going near Chnnavalavanur with great speed, a lorry bearing Registration No.TSK 5976 came with rash and negligent manner from opposite direction and dashed against the van. As a result, the deceased and other persons/received serious injuries and fourteen others were died. The accident happened only due to the rash and negligent act of the both the van and lorry drivers.

(ii) A criminal case is registered against the driver of the lorry in connection with the accident by the Mailam Police Station in Crime No.899/98 under Section 279, 337, 338 and 304(A) I.P.C.

(iii) The deceased was only 5 years old hale and healthy boy. The 1st respondent has lost his brother along with parents in the same accident and left lonely. He is suffering to lead his life.

(iv) Since the second respondent is the owner of the lorry and the appellant is the insurer of the lorry, the third respondent is the owner and the fourth respondent is the insurer of the van.

(v) The accident was due to the negligent act of both the drivers of the lorry and van, the respondents are jointly and severally liable to pay the entire compensation.

3. The appellant/Insurance Company has fairly submitted that in C.M.A.(NPD) Nos.1075 to 1079 of 2006 and C.M.P.Nos.4456 to 4460 of 2006, this Court has passed an order on 28.07.2010, whereby the liability of the Insurance Company is upheld and accordingly on the liability aspect raised in this appeal, is confirmed and held against the Insurance Company.

4. Both the counsels have been heard on the point of quantum.

5. After going through the compensation awarded in different heads, I am satisfied that the order of the Tribunal is just and fair and the same is hereby confirmed.

6. In view of this matter, this Civil Miscellaneous Appeal is dismissed.

The appellant/Insurance Company has submitted that the entire amount has already been deposited. It is open to the claimant to file petition before the Tribunal for

withdrawal of the compensation amount. No costs. Consequently,
connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal
(Chief Judicial Magistrate) Salem.

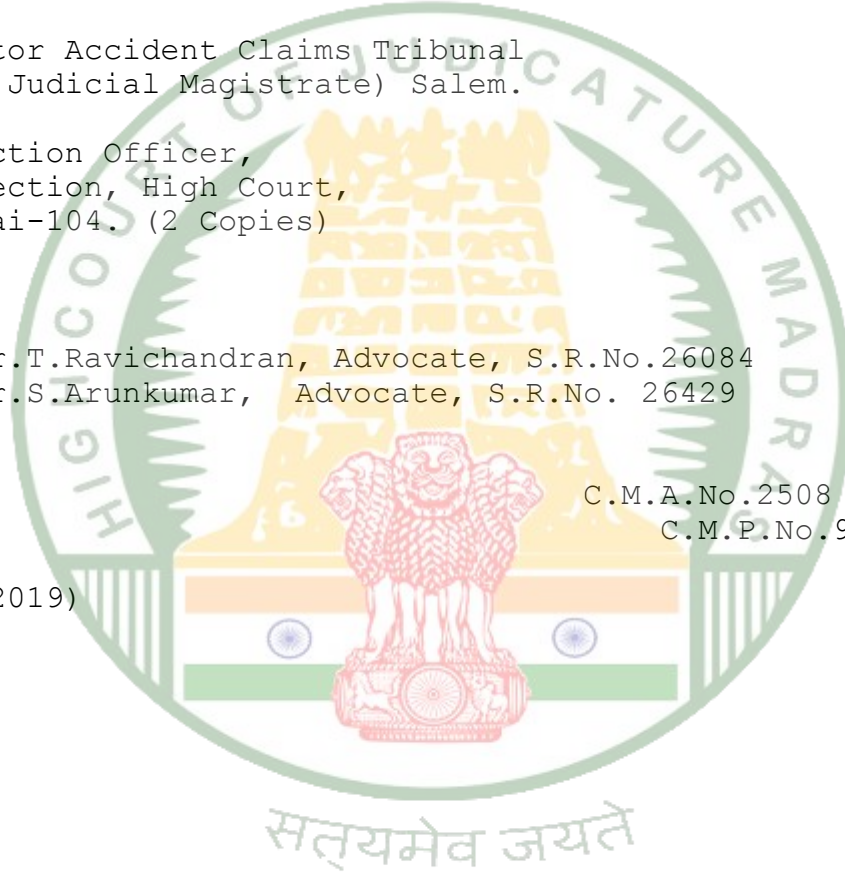
2. The Section Officer,
V.R.Section, High Court,
Chennai-104. (2 Copies)

+1cc to Mr.T.Ravichandran, Advocate, S.R.No.26084

+1cc to Mr.S.Arunkumar, Advocate, S.R.No. 26429

SJ(CO)
GN(12/06/2019)

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