

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3543 of 2006
and
M.P.No.1 of 2006

The New India Assurance Co. Ltd.,
#1, Bharathi Road,
Arcot Woodlands Building,
Cuddalore.

... Appellant /2nd Respondent

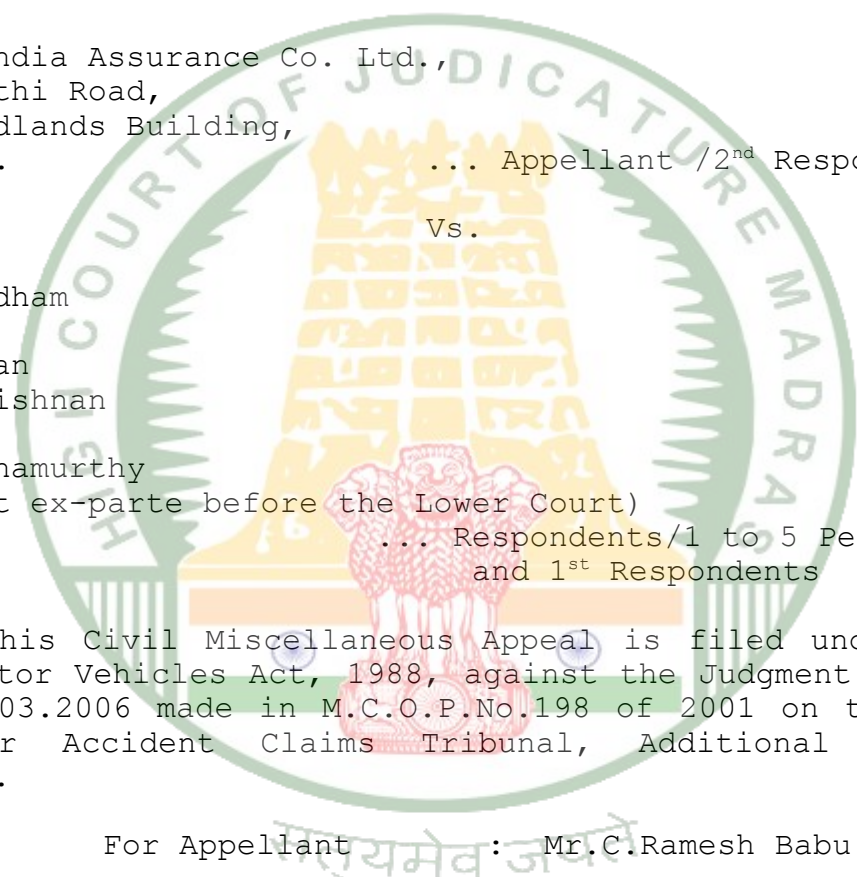
Vs.

1.Navaneedham
2.Selvam
3.Nagarajan
4.Muthukrishnan
5.Selvi
6.A.Krishnamurthy

(R6 set ex-parte before the Lower Court)

... Respondents/1 to 5 Petitioners
and 1st Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 20.03.2006 made in M.C.O.P.No.198 of 2001 on the file of the Motor Accident Claims Tribunal, Additional Sub-Court, Cuddalore.

For Appellant : Mr.C.Ramesh Babu

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 20.03.2006 made in M.C.O.P.No.198 of 2001 on the file of the Motor Accident Claims Tribunal, Additional Sub-Court, Cuddalore (for brevity, "the Tribunal").

2.Originally, the claim petition was filed by one Veeran, who sustained grievous injuries in an accident that had occurred on 11.09.2000 involving a Mahindra Van bearing Regn.No.TCO 5977 insured with the appellant herein, seeking a compensation of Rs.5,00,000/-. Pending the same, the said Veeran died and his

legal heirs were impleaded as parties to the same and they contested the claim petition. The Tribunal, considering the pleadings, oral and documentary evidence, awarded a sum of Rs.1,50,000/- with interest at 7.5% p.a. as compensation to the respondents 1 to 5. Challenging the quantum of compensation awarded by the Tribunal, the appellant-Insurance Company has come out with the present appeal.

3.The learned counsel appearing for the appellant insurance company has not disputed the liability fixed on the insurance company to pay compensation to the claimants. However, he submitted that in the absence of any evidence with regard to the age, income and avocation of the deceased, the total compensation of Rs.1,50,000/- awarded by the Tribunal is on the higher side and the same has to be reduced.

4.Heard the learned counsel appearing for the appellant and perused the materials available on record. The appellant has not taken any steps to serve papers on the respondents/claimants even at this length of time. However, considering the fact that the appeal is of the year 2006, this Court is inclined to proceed with the matter, on merits.

5.There is no dispute with regard to the liability fixed on the insurance company to pay compensation to the claimants.

6.As regards the quantum of compensation, P.W.1/wife of the deceased has deposed that the 6th respondent/owner-cum-driver of the Mahindra Van drove the offending vehicle in a rash and negligent manner and dashed against the Bullock-cart, in which the deceased travelled and caused the accident. Due to the said impact, the deceased sustained grievous injuries. P.W.2 who is eye witness to the accident corroborated the testimony of P.W.1. Ex.P3 is wound certificate. However, no concrete material either oral or documentary, was produced to prove the age, income and avocation of the deceased. On the side of the appellant Insurance Company, neither any witness was examined, nor any document was marked. In the absence of any rebuttal evidence to deny the claim of the claimants, the Tribunal has awarded a consolidated sum of Rs.1,50,000/- as compensation to the claimants, which this Court is not inclined to interfere, as the same is based on the material and evidence available on record and the probabilities of the case and also having regard to the fact that due to the injuries suffered in the accident, he died subsequently.

7.In the result, the Civil Miscellaneous Appeal is dismissed by confirming the award passed by the Tribunal. The appellant-Insurance Company is directed to deposit the entire amount awarded by the Tribunal along with interest and cost, less the

amount already deposited if any, within a period of four weeks from the date of receipt of copy of this judgement. On such deposit, the Tribunal shall transfer the same to the savings bank account of the respective respondents/claimants through RTGS, as per the ratio of apportionment made by the Tribunal, within a period of one week thereafter. No costs. Consequently, the Civil Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Additional Sub-Judge,
Motor Accident Claims Tribunal,
Cuddalore.

2.The Section Officer,
V.R.Section,
High Court of Madras,
Chennai.

+1cc to Mr.C.Ramesh Babu, Advocate Sr.47262

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and
M.P.No.1 of 2006

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