

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2612 of 2008

National Insurance Company Ltd
Cuddalore

Appellant / 2nd Respondent

Vs

1. Jambulingam
2. Umapathy
3. Murugan
4. R.Bharath

Respondents 1 to 3/Petitioners 1-3/
4th Respondent/1st Respondent

Prayer: Appeal under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 12.10.2006 made in MCOP No.142 of 2005 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Chidambaram.

For Appellant : Mr.D.Bhaskaran

For Respondents: Mr.A.S.Velmurugan for R1 to R3

J U D G M E N T

This Civil Miscellaneous Appeal is preferred by the Insurance Company, as against the award of Rs.3,53,000/- payable to the claimants / Respondents 1 to 3 herein.

2. The claimants have filed the claim petition claiming compensation of Rs.10,00,000/-, for the death of one Indirani, who is the wife of the first respondent and mother of the 2nd and 3rd respondents herein.

3. The deceased Indirani was a milk vendor, aged 37 and was earned a sum of Rs.5,000/- per month, who met with a fatal accident on 04.06.2003, when she was walking on the left side of the road as a pedestrian, at that time, a Tractor belonging to the 4th respondent herein, which was driven by its driver in a rash and negligent manner, hit the deceased on the backside and ran over her. Immediately, after the accident, the deceased was taken to the hospital where she was declared brought dead.

4. Heard both sides.

5. It is the contention of the learned Counsel appearing for the appellant / Insurance Company that the Tribunal failed to consider the evidence of RW1-Doctor and Ex.P.1-Accident Register; the claimants have not proved that the accident had happened only due to the rash and negligent driving of the driver of the tractor, as per Section 166 of Motor Vehicles Act; the Tribunal failed to note that as per Ex.P.9, Policy, it does not cover the liability of the deceased passenger and hence, the Insurance Company has no liability to pay compensation.

6. The learned counsel appearing for the respondents 1 to 3 / claimants submitted that the Tribunal, based on the documents available on record and evidence adduced, has passed the compensation, which is just and proper and hence, no interference is called for.

7. An analysis of the award of the Tribunal evidently discloses the following factors:-

- i. The evidence of RW 3 / driver of the vehicle corroborates with the evidence of RW 1.
- ii. The evidence of doctor was to the effect that when the deceased was brought to the hospital, she was declared brought dead.
- iii. PWs.1 and 2 uniformly said that the deceased was walking on the left side of the road and the accident took place, due to the negligent driving of the driver of the tractor.

8. Based on the materials available on record and evidence adduced, the Tribunal has fixed the liability on the part of the appellant herein. The findings on negligence by the Tribunal are also based on the eyewitnesses account and other aspects governing the principles of the Motor Vehicles Act. No contra evidence or document was forthcoming from the appellant herein against the findings rendered by the Tribunal. Further, the grounds raised by the appellant are already answered by the Tribunal in detailed manner.

9. As far as the quantum of compensation awarded by the Tribunal is concerned, the same is awarded under various heads, which are being followed in all the cases by the Claims Tribunal, on conventional methodology. Hence, this Court is of the view that no interference is required on that aspect.

10. In view of the above discussions, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs. The appellant Insurance Company is directed to deposit the award amount as ordered by the Tribunal with interest, 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. On such deposit being made, the Tribunal is directed to transfer the deposited amount to the Savings Bank Account of the claimants / respondents 1 to 3 herein, forthwith, through RTGS, as per the ratio of apportionment made by the Claims Tribunal.

Sd/-
Assistant Registrar(CS-V)

//True copy//

Sub Assistant Registrar

srk/vrn

To

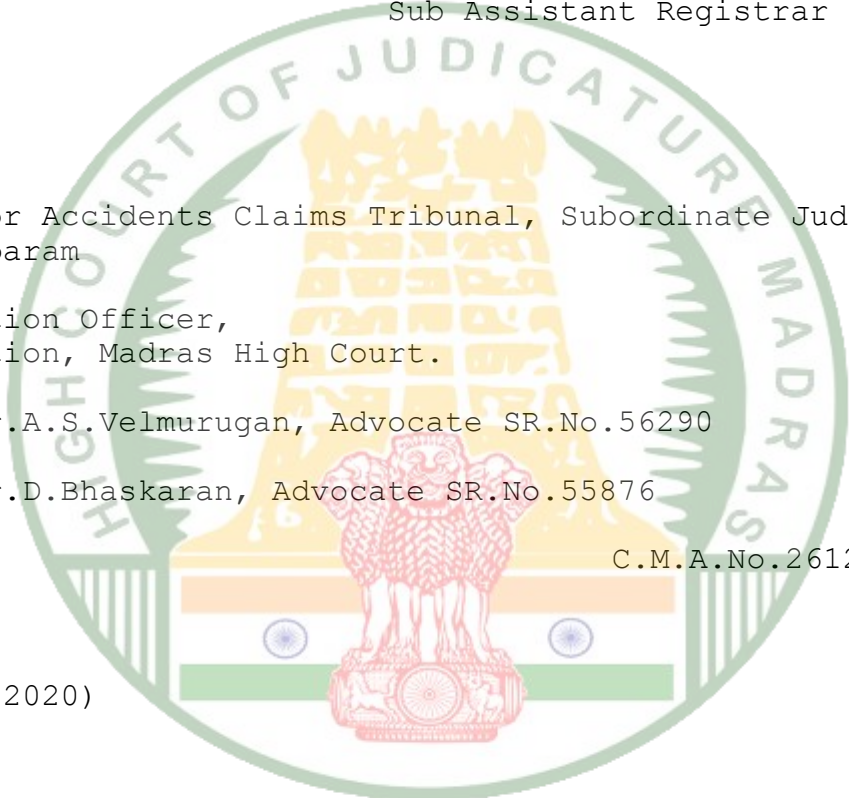
- 1.The Motor Accidents Claims Tribunal, Subordinate Judge,
Chidambaram
- 2.The Section Officer,
VR Section, Madras High Court.

+1cc to Mr.A.S.Velmurugan, Advocate SR.No.56290

+1cc to Mr.D.Bhaskaran, Advocate SR.No.55876

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KJI (CO)
GMY (03/01/2020)



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