

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 13.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.1477 of 2010 and
M.P.No.1 of 2010

National Insurance Co.Ltd.,
The Branch Manager,
No. 738, Anna Salai, (Near Bank of America)
Chennai. Appellant

Versus

1. Kalyani
2. Chanakyan
3. Nimialesuuar
4. Thiyagaraja Gurukkal
5. N.Lakshmi
6. J. Srinivasan
7. M/s. United India Insurance Co.Ltd., The Manager,
No.235, Gandhi Road,
Kancheepuram. Respondents

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act, 1988 to set aside the Judgment and Decree passed in M.C.O.P.No. 229 of 2004 on 29.10.2009 on the file of the Learned Motor Accident Claims Tribunal (Principle Sub-Ordinate - Judge) at Chengalpattu District.

For Appellant : Mr. J. Chandran
For Respondents 1 - 4 : Mr. D. Senthil Kumar
For Respondent - 7 : Mr. G. Udaya Sankar

J U D G M E N T

Challenging the negligence as well as the quantum of compensation awarded by the Claims Tribunal in M.C.O.P.No. 229 of 2004 on the file of the Motor Accident Claims Tribunal (Principle Sub-Ordinate - Judge) at Chengalpattu, the appellant has preferred this Civil Miscellaneous Appeal.

2. On 14.02.2004 when the deceased Arumugam who is the husband of the first respondent herein was proceeding in a Tata Sumo Car bearing Registration No.TN-04-J-4599, a lorry bearing Registration No.TNI-7594 came in the opposite direction at a very high speed and dashed the car. In the result, the deceased

sustained grievous injuries and died in the spot itself. The accident occurred only due to the rash and negligent act of the driver of the vehicle. Hence, the legal heirs of the deceased who is the respondents 1 to 3 herein, along with 4th respondent, have filed claim petition in M.C.O.P.No. 229 of 2004 on 29.10.2009 on the file of the Learned Motor Accident Claims Tribunal (Principle Sub-Ordinate - Judge) at Chengalpattu District, seeking compensation for a sum of Rs.10,00,000/-. The Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.5,23,000/- payable with interest at the rate of 7.5% per annum.

3. Challenging the same as excessive and disproportionate, the appellant has filed this appeal.

4. Heard the arguments of counsel for the appellant and perused the materials available on record. Though notice was ordered to the respondents and the same is yet to be completed for service.

5. As far as the award of compensation is concerned, the Tribunal has applied its mind and awarded compensation properly, which do not warrant interference by this Court.

6. Upon perusing the entire award of the Tribunal, it is seen that the Tribunal entered into its findings based on oral and documentary evidence before it and has awarded a just and fair compensation, which need not be interfered with by this Court in this appeal and the quantum of compensation assessed by the Tribunal, cannot be said to be improper. Since, the Tribunal has applied its mind properly and granted the award with the correct head, which is well considered order.

7. In the result,

(a) this appeal is dismissed and the Judgment and Decree of the Tribunal in M.C.O.P.No.229 of 2004, dated 29.10.2004 is confirmed.

(b) the appellant/National Insurance Company is directed to deposit amount as awarded by the Tribunal with the interest at the rate of 7.5% within a period of 8 weeks from the date of receipt of copy of this order.

(c) On such deposit the respondents 1 to 4 are permitted to withdraw and disburse the amount as per the directions of the Tribunal, by way of filing proper application before the Tribunal.

(e) There will be no order as to costs.

(f) Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

smn

To.

The Principle Subordinate, Judge
Chengalpattu District.

copy to: The Section Officer,
VR Section, High Court, Madras.

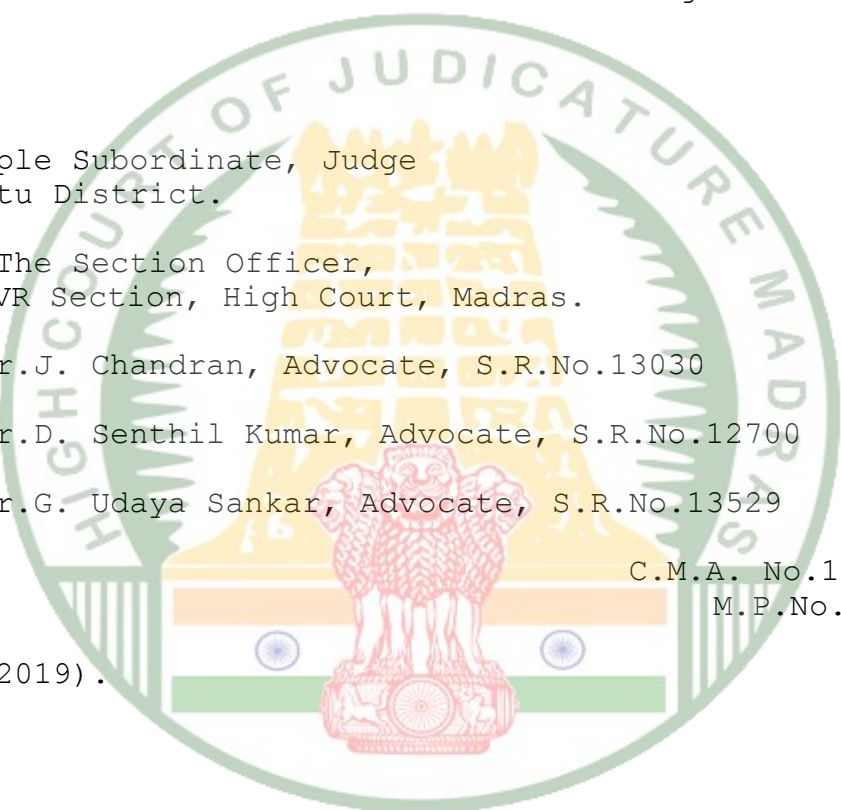
+1 cc to Mr.J. Chandran, Advocate, S.R.No.13030

+1 cc to Mr.D. Senthil Kumar, Advocate, S.R.No.12700

+1 cc to Mr.G. Udaya Sankar, Advocate, S.R.No.13529

C.M.A. No.1477 of 2010
M.P.No.1 of 2010

MG(CO)
SSM(07/05/2019).

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital on top. Below the gopuram is a red elephant capital. The entire emblem is set against a background of the Indian national flag's saffron, white, and green horizontal stripes. The words 'HIGH COURT OF JUDICATURE MADRAS' are written in a green circle around the emblem. At the bottom, the Sanskrit motto 'सत्यमेव जयते' (Satyameva Jayate) is written in Devanagari script.

WEB COPY