

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.3596 of 2008  
and  
M.P.No.1 of 2008

The Manager,  
New India Insurance Co.Ltd.,  
Cuddalore. ... Appellant/2nd Respondent

Vs.

1.Ganapathy  
2.Govindasamy  
3.Chinnasamy

4.M/s.Annai Meera Finance  
and Investment Ltd.,  
66/5A, Spur Tank Road,  
Chetpet, Chennai-600 031.

... Respondents/Petitioner &  
1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 26.04.2007 made in M.C.O.P.No.130 of 2003 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Villupuram.

For Appellant : Mr.S.Ramalingam  
For R1 to R3 : Mr.N.Suresh

J U D G M E N T

Calling in question the judgement and decree dated 26.04.2007 passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Villupuram in M.C.O.P.No.130 of 2003, the present Civil Miscellaneous Appeal has been filed.

2.The case in brief, is as follows:

On 12.04.1997, at about 02.00 a.m., one Duraisamy was sleeping in front of the entrance of Meera Paper Mill. At that time, the driver of a lorry bearing Registration No.TN01 E 9762 belonging to the fourth respondent and insured with the

appellant insurance company, tried to make reverse of the vehicle. Due to his rash and negligent act, the right side back wheel of the lorry ran over the deceased head and left leg and thereby caused instantaneous death to him. Stating that the accident had occurred due to the rash and negligent act on the part of the driver of the lorry, the respondents 1 to 3, who are the legal heirs of the deceased, filed a claim petition claiming a compensation of Rs.3,00,000/- On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,82,000/- with interest at the rate of 7.5% per annum from the date of petition. Challenging the same, the appellant/Insurance Company has filed the present Civil Miscellaneous Appeal.

3.The learned counsel for the appellant/Insurance Company has not disputed the quantum of compensation awarded by the Tribunal. However, he submitted that the claimants failed to furnish details about the name and address of the office of the insurance company, policy number, date of insurance and the period of insurance policy in the claim petition and hence, the finding of the Tribunal that the vehicle involved in the accident was insured with the appellant insurance company, is incorrect and hence, the same is liable to be set aside.

4.The learned counsel for respondents 1 to 3 submitted that the Tribunal has rightly considered the materials and evidence and has passed the impugned judgement and hence, the same do not call for any interference in the hands of this Court.

5.Heard the learned counsel for the appellant and the learned counsel for the respondents 1 to 3 and perused the materials available on record carefully and meticulously.

6.P.W.1/first respondent has deposed in his evidence that the deceased died on the spot, while sleeping in front of Meera Paper Mills, due to rash and negligent act on the part of the driver of the lorry bearing Regn.No.TN01 E 9762. P.W.2/Motor Vehicle Inspector stated that there was no mechanical defect for the accident. There was no evidence adduced on the side of the appellant insurance company to deny the manner of the accident as narrated by the claimants. Hence, the Tribunal has rightly come to the conclusion that the accident had occurred due to the rash and negligent driving of the driver of the lorry, which finding this Court is not inclined to interfere.

7.The learned counsel for the appellant insurance company contended that the claimants have not proved that the vehicle involved in the accident, was insured with the appellant by furnishing details about the name and address of the office of

the insurer, policy number, date of insurance and the period of the insurance policy in the claim petition. To substantiate the same, they examined the Executive Officer as R.W.1, who asserted that the vehicle bearing Regn.No.TN01 E 9762 was not insured with their insurance company; in this regard, they already sent Ex.R1 legal notice to the owner of the vehicle; and the said legal notice was returned unserved, which were marked as Exs.R2 and R3. However, as per Ex.A2 motor vehicle inspector's report, the insurance policy covering the vehicle involved in the accident was valid till 26.08.1997, whereas the accident took place on 12.04.1997. In the absence of any contra evidence to the same, the Tribunal has rightly fastened the liability on the appellant insurance company to pay compensation to the respondents/claimants. This Court is of the view that the finding so rendered by the Tribunal is based on the materials and evidence and hence, the same need not be interfered.

8.Since the learned counsel for the appellant insurance company has not disputed the quantum of compensation awarded by the Tribunal, the same is confirmed as such.

9.In the result, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant / Insurance Company is directed to deposit the entire compensation amount, as awarded by the Claims Tribunal, along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the amount to the respective bank accounts of the claimants / respondents 1 to 3, through RTGS, within one week thereafter, as per the ratio of apportionment made by the Claims Tribunal.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

gbi  
To

1. The Chief Judicial Magistrate,  
Motor Accident Claims Tribunal,  
Villupuram.

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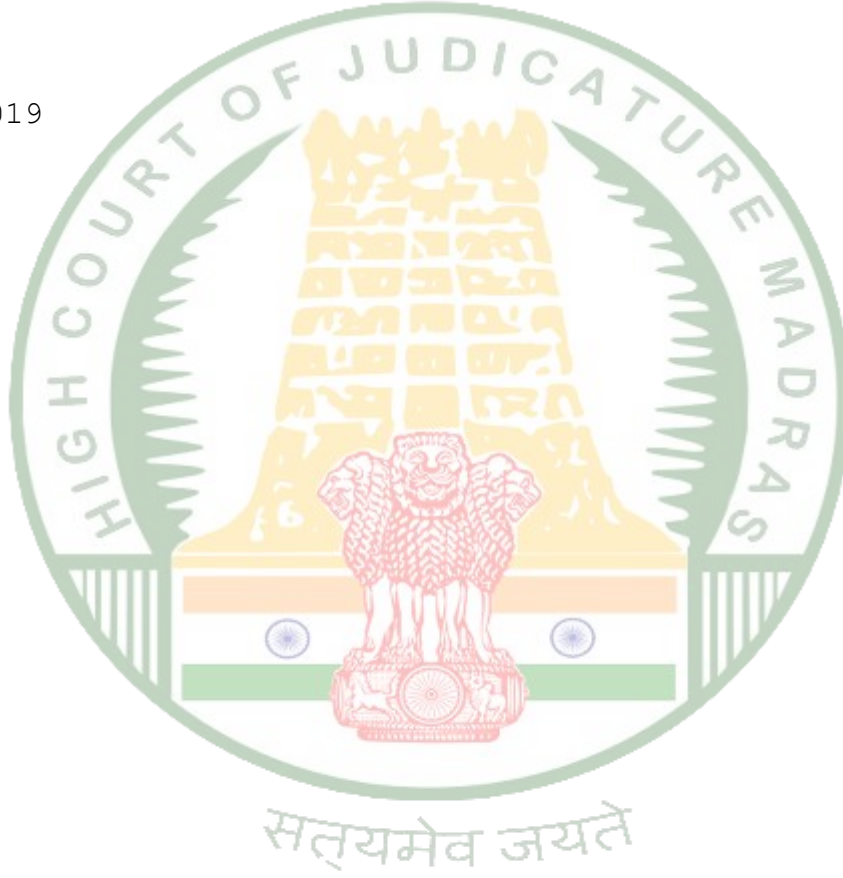
2.The Section Officer,  
VR Section, High Court,  
Madras.

+1 cc to M/s.Ramalingam Advocate sr61528

+1 cc to M/s.N.Suresh Advocate sr61821

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