

IN THE HIGH COURT OF JUDICATUE AT MADRAS

DATED: 18.02.2019

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.M.A.No.3008 of 2010 and

M.P.No.1 of 2010

National Insurance Co Ltd.,
No. 751 Anna Salai,
Chennai 600 002.

... Appellant/2nd Respondent

Versus

1.Saroja
2.Kamaraj
3.Kasthuri Bha
4.Kavitha

... Respondent 1 to 4/Petitioner

5.K.Subramni

...5th Respondent/Respondent 1

Prayer:-

This Appeal is filed under Section 173 of Motor Vehicles Act,1988 to set aside the Judgment and Decree dated 17.04.2009 and made in M.A.C.T.O.P.No. 4840 of 2004 on the file of the Motor Accident Claims Tribunal, (In the VI Court of Small Causes, Chennai).

For Appellant :Mr.S.Vadivel

For Respondents 1 to 4 :Mr.C.Rajkumar

J U D G M E N T

This appeal has been filed against the Judgment and Decree dated 17.04.2009 and made in M.A.C.T.O.P.No. 4840 of 2004 on the file of the Motor Accident Claims Tribunal, Chennai(In the VI Court of Small Causes, Chennai).

2. On 27.04.2004 at about 8:30 hours when the deceased was proceeding in his motor cycle bearing Registration No. TN-20-Y-3082 at Ponneri, a lorry bearing Registration No. TN-29-Y-3609 came in the opposite direction in a rash and negligent manner and hit the vehicle of the deceased and also dashed against

another lorry bearing Registration No.AP-16-U-2256. In the result the deceased sustained grievous injuries and died on the spot itself. The accident occurred only due to the rash and negligent act of the driver of the lorry bearing Registration No. TN-29-Y-3609. The first, second, third and fourth respondents who are the legal heirs of the deceased filed M.C.O.P.No.4840 of 2004 on the file of the Motor Accident Claims Tribunal, Chennai(In the VI Court of Small Causes, Chennai) seeking compensation for a sum of Rs.7,00,000/-. The Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.4,89,000/- 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, 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 dated 17.04.2009, in M.C.O.P.No.4840 of 2004, on the file of Motor Accident Claims Tribunal Chennai(In the VI Court of Small Causes, Chennai).

(b) the appellant/Insurance Company is directed to deposit the amount as directed by the Tribunal, less the amount, if any, already deposited, with interest at the rate of 7.5% within a period of 8 weeks from the date of receipt of copy of this Judgment.

(c) On such deposit the respondents 1 to 4 are permitted to withdraw the amount equally, 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 VI)

//True Copy//

Sub Assistant Registrar

smn

To.

The Motor Accident Claims Tribunal,
In the VI Court of Small Causes,
Chennai

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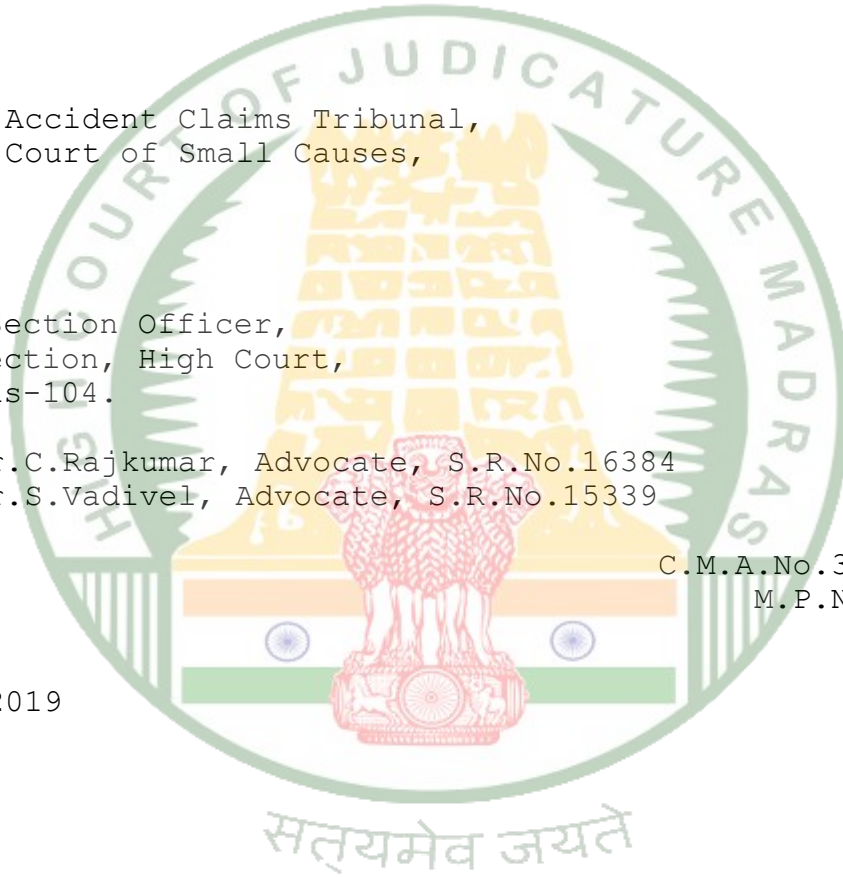
The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to Mr.C.Rajkumar, Advocate, S.R.No.16384

+1cc to Mr.S.Vadivel, Advocate, S.R.No.15339

C.M.A.No.3008 of 2010
M.P.No.1 of 2010

SSV(CO)
CS/17/07/2019



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