

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 15.11.2019
CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.3589 of 2010
and
M.P.No.1 of 2010

M/s. National Insurance Company Limited,
Mettupalayam Branch Office,
No.157, Karamadai Road,
R.V.R. Buildings,
Mettupalayam - 641 301. . Appellant/3rd respondent

Vs.

1.Revathi
2.Minor. Kirubakaran
3.Minor. Soundarya
4.Minor. Sowmiya
5.Rajammal
6.Perumal ..1 to 6 Respondents/ Petitioners
7.Pappannan
8.R.Logambal
9.A.Rajendran ..7 to 9 Respondents/ 1,2,4 Respondents
(Minor respondents 2 to 4 represented by mother and next friend, Revathi, first respondent)
(Respondents 8&9 exparte in Lower Court & hence Notice may be dispensed with)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 23.12.2009 passed in M.C.O.P.No.115 of 2001 on the file of the Motor Accident Claims Tribunal / Sub Court, Mettur.

For Appellant : Mr.N.Vijayaraghavan
For RR 1 to 6 : Mr.A.A.Venkatesan
For R7 : Mr.V.Manohar
For RR 8 & 9 : No appearance

J U D G M E N T

The appellant / National Insurance Company Limited is the third respondent in M.C.O.P.No.115 of 2001 on the file of the Motor Accident Claims Tribunal / Sub Court, Mettur. The respondents 1 to 6 / claimants filed the claim petition under Section 166 of the Motor Vehicles Act, 1988, seeking compensation of Rs.10,00,000/- for the death of one P.Madeswaran, husband of the first claimant, father of the claimants 2 to 4 and son of the claimants 5 and 6 in a road accident on 12.03.2001.

2. The case of the claimants is that on 12.03.2001, P.Madeswaran (deceased) was travelling in a jeep bearing Registration No. TND 1449 along Pethanaickenpalayam road and at about 05.15 hours, the driver of the jeep drove the vehicle rashly and negligently and hit a stationary lorry bearing Registration No. TAM 2666, that was parked on the middle of the road, as a result of which, the deceased sustained fatal injuries and died on the same day. According to the claimants, the rash and negligent driving of the driver of the jeep belonging to the seventh respondent was the cause of the accident and that since the said vehicle was insured with the present appellant / National Insurance Company Limited, the owner and the insurer of the jeep are jointly and severally liable to pay compensation.

3. The learned Subordinate Judge / Motor Accident Claims Tribunal, Mettur after analysing the evidence on record, fixed negligence on the part of the drivers of the lorry and the jeep in the ratio 60:40 and awarded a compensation of Rs.6,56,000/- together with interest at the rate of 7.5% per annum to the claimants. Aggrieved over the orders passed by the Tribunal, the appellant / National Insurance Company Limited has filed the present appeal under Section 173 of Motor Vehicles Act, 1988.

4. Mr.N.Vijayaraghavan, learned counsel appearing for the appellant / National Insurance Company Limited contended that since the driver of the jeep was rash and negligent, the entire negligence should be fixed on the part of the driver of the jeep.

5. Heard Mr.A.A.Venkatesan, learned counsel appearing for the respondents 1 to 6 and Mr.V.Manohar, learned counsel appearing for the seventh respondent. No appearance on behalf of the respondents 8 and 9.

6. A perusal of the Motor Vehicle Inspector's report clearly shows that the jeep hit the lorry from behind. However, the lorry was parked on the middle of the road without any indicator light, in a manner causing inconvenience to the road users. The appellant / Insurance Company did not also examine the driver of the lorry to substantiate their contention that the driver of the jeep alone was responsible for the accident. Therefore, the order of the Tribunal fixing negligence on the part of the drivers of the lorry and the jeep in the ratio 60:40 cannot be found fault with.

7. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

(ii) The orders passed by the Tribunal is upheld.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

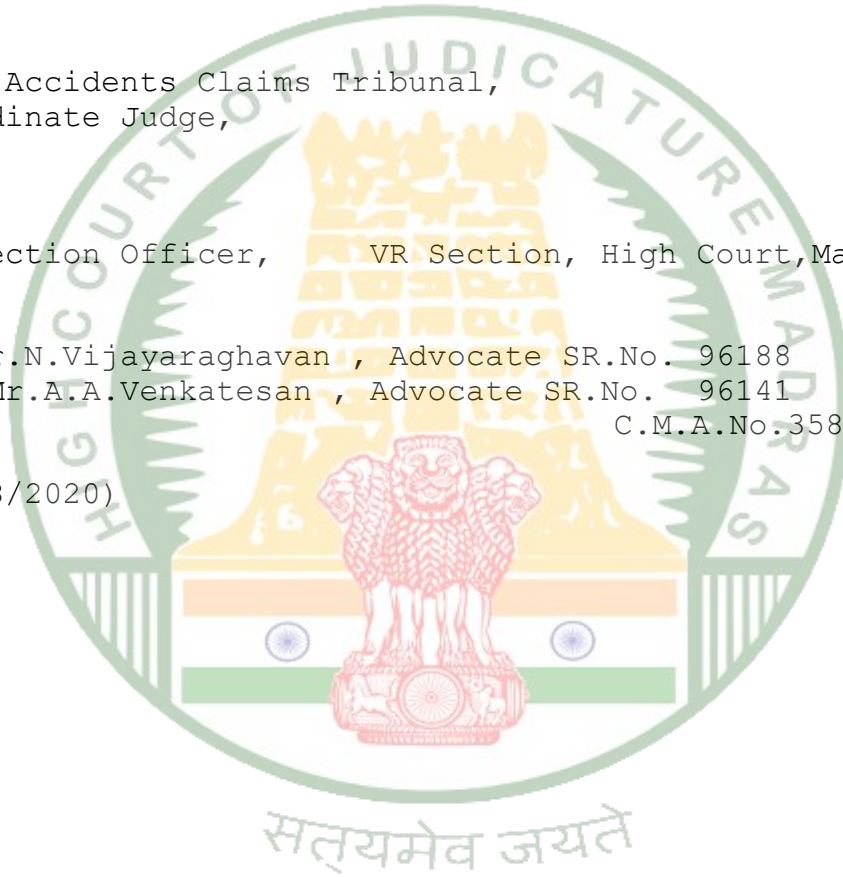
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To

The Motor Accidents Claims Tribunal,
The Subordinate Judge,
Mettur.

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

+1cc to Mr.N.Vijayaraghavan , Advocate SR.No. 96188
+2ccs to Mr.A.A.Venkatesan , Advocate SR.No. 96141
C.M.A.No.3589 of 2010

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A.SK(27/08/2020)



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