

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2019

CORAM

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

C.M.A. No.469 of 2010 and
M.P.No.1 of 2010

National Insurance Co.Ltd.,
Represented by its Branch Manager,
1st Floor, T.S.No.4132,
East Main Road,
Pudukottai Town and Munisif.
... Appellant/2nd Respondent

Versus

1. Peramaian
2. Vijayalakshmi
3. Rajalakshmi
4. Pandian

... Respondents/ Petitioners/1st Respondent

Prayer: This Appeal is filed under Section 173 of Motor Vehicles Act, 1988 to set aside the Judgment and Decree made in M.A.C.T.O.P.No. 705 of 2006 dated 13.10.2008 on the file of the Motor Accident Claims Tribunal (Subordinate Court), Mannargudi.

For Appellant : Mr.S.Vadivel
For Respondents : No appearance

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.A.C.T.O.P.No. 705 of 2006 on the file of the Motor Accident Claims Tribunal (Subordinate Court), Mannargudi, the appellant has preferred this Civil Miscellaneous Appeal.

2. On 22.07.2006 when the father of the respondents 1 to 3 herein was proceeding in a bullock cart at sandaipuli post near pattukotai to Mannargudi main road, the bus bearing Registration No.T-N-49-J-6363 came in the opposite

direction at a very high speed and dashed the bullock cart. In the result, the father of the respondents 1 to 3 herein sustained greivous injuries and died in the sport 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 are respondents 1 to 3 herein, have filed M.C.O.P.No.469 of 2010, before the Motor Accident Claims Tribunal, (Subordinate Court), Mannargudi, seeking compensation for a sum of Rs.6,00,000/-. The Tribunal, on a consideration of oral and documentary evidence, has awarded a sum of Rs.2,04,000/- payable with interest at the rate of 9% 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 there is no representation either in person or through counsel.

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 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.705 of 2006, dated 13.10.2008 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 9% within a period of 8 weeks from the date of receipt of copy of this order.

(c) On such deposit the respondents/claimants 1 to 3 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 viii)

//True Copy//

Sub Assistant Registrar

smn

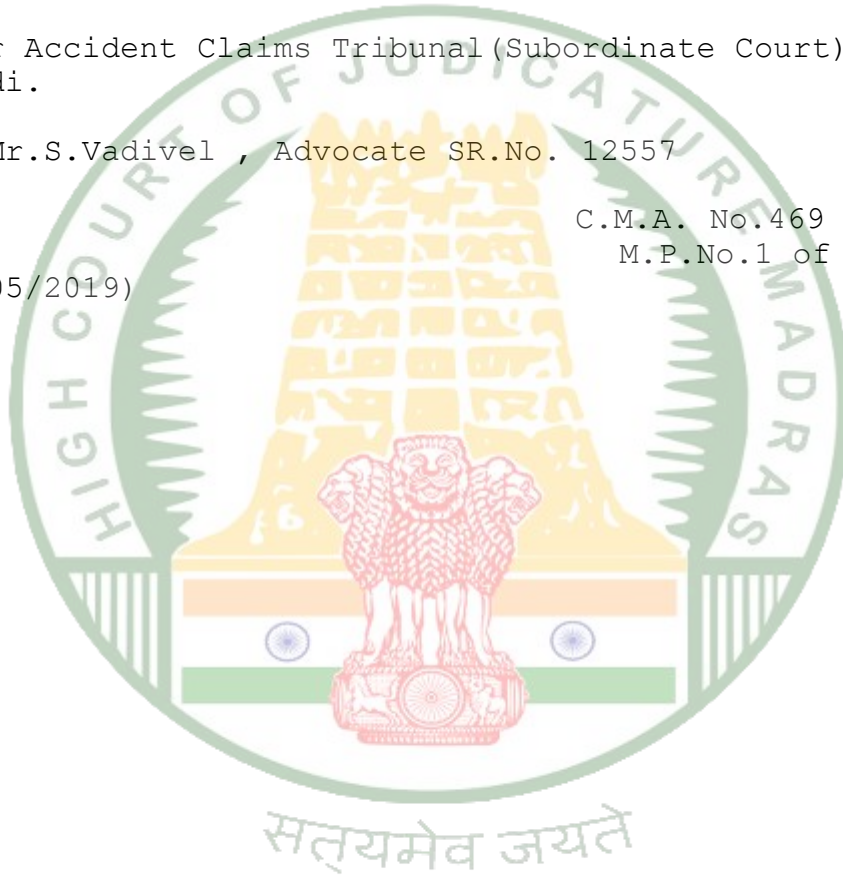
To.

The Motor Accident Claims Tribunal (Subordinate Court),
Mannargudi.

+1cc to Mr.S.Vadivel , Advocate SR.No. 12557

C.M.A. No.469 of 2010
M.P.No.1 of 2010

A.SK(03/05/2019)



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