

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.1917 of 2013

The Branch Manager,
The New India Assurance Co. Ltd.,
Branch Office, 38-C, Bye-Pass Road,
Dharmapuri - 636 701.
.. Appellant/2nd respondent

vs.

1.Sukumaran

2.Gunavathy ..1st &2nd Respondent / Petitioners

3.Mr.N.S.Sowrinathan

..3rd Respondent/1st respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 13.12.2011 passed in MCOP.No.11 of 2008 on the file of the Motor Accident Claims Tribunal / Principal District Court, Krishnagiri.

Appellant	: M/s.Elveera Ravindran
Respondents 1 & 2	: Mr.M.Sriram
Respondent 3	: No appearance

सत्यमेव जयते
J U D G M E N T

The appellant the Branch Manager, New India Assurance Company Limited is the second respondent in MCOP.No.11 of 2008 on the file of the Motor Accident Claims Tribunal / Principal District Court, Krishnagiri. The respondents 1 and 2 / claimants filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.15,00,000/- for the death of their son Prasath in a road accident on 05.08.2006.

2. The case of the claimants in nutshell is as follows:

On 05.08.2006, the deceased Prasath was riding his bicycle with one Saravanan as pillion rider on Bargur - Krishnagiri NH Road and at about 03.50 p.m, a speeding bus

bearing Registration No.TN 29 K 1441 belonging to the third respondent and insured with the present appellant, hit his bicycle, as a result whereof, the deceased fell down and sustained fatal injuries. Immediately, he was rushed to Government Hospital at Krishnagiri. However, he died on the way to hospital.

3. According to the claimants, the rash and negligent driving of the driver of the bus bearing Registration No.TN 29 K 1441, belonging to the third respondent, was the cause of the accident and that since the said bus was insured with the present appellant / New India Assurance Company Limited, are jointly and severally liable to pay compensation.

4. The third respondent, owner of the bus remained absent before the Tribunal and therefore, he was set ex-parte. The appellant / New India Assurance Company Limited contested the claim petition on all the grounds available to the insurer and the learned Principal District Judge / Motor Accidents Claims Tribunal, Krishnagiri awarded compensation of Rs.5,60,000/- together with interest at the rate of 6% per annum to the claimants. Questioning the quantum of compensation awarded by the Tribunal, the New India Assurance Company Limited has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Heard Mrs.Elveera Ravindran, learned counsel appearing for the appellant and Mr.M.Sriram, learned counsel appearing for the respondents 1 and 2. No appearance on behalf of the third respondent.

6. In the instant case the deceased was aged 21 years and the Tribunal after fixing his notional monthly income as Rs.5,000/- adopted multiplier 18 and awarded compensation of Rs.5,40,000/-. By no stretch of imagination, the award passed by the Tribunal can be said to be on the higher side. Therefore, the present appeal is liable to be dismissed.

7. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs.

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

(iii) The appellant / New India Assurance Company Limited and the third respondent are directed to deposit the compensation awarded by the Tribunal i.e., Rs.5,60,000/- (less the amount already deposited) jointly and severally, together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.11 of 2008 on the file of the Motor Accident Claims Tribunal / Principal District Court, Krishnagiri within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the respondents 1 and 2 / claimants are at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

mtl

To

The Motor Accidents Claims Tribunal,
The Principal District Judge,
Krishnagiri.

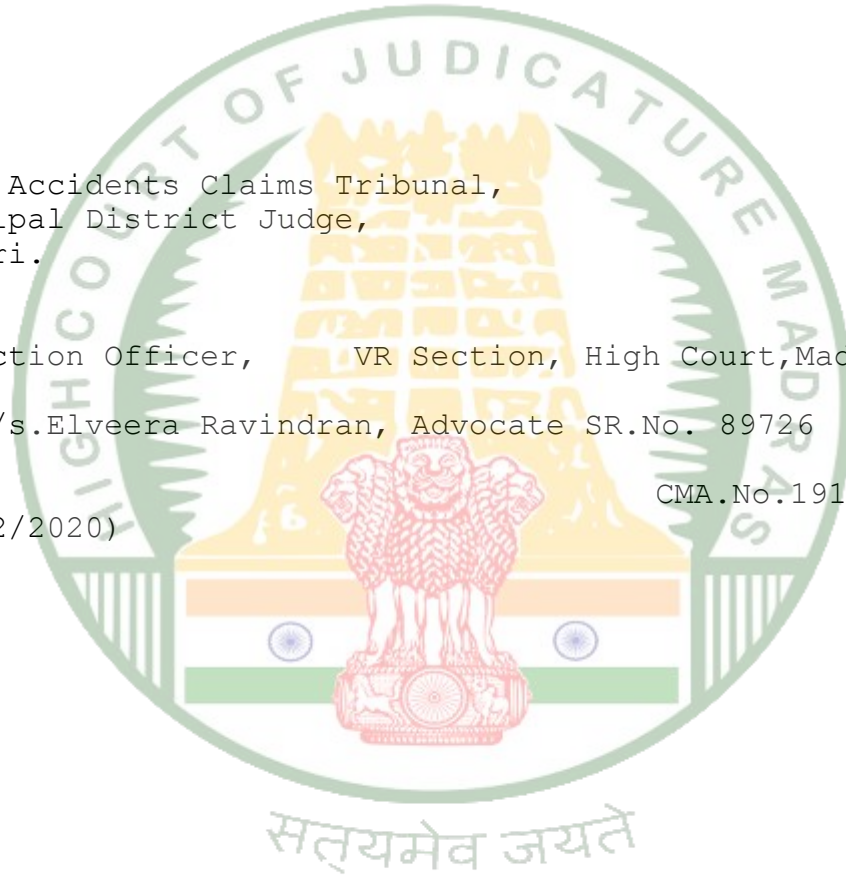
Copy to:

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

+lcc to M/s.Elveera Ravindran, Advocate SR.No. 89726

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A.SK(12/02/2020)



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