

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.11.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.129 of 2016
and C.M.P.No.2129 of 2016

The Divisional Manager
United India Insurance Co.Ltd.
D.O.,13-A, Nethaji Road,
Cuddalore-607 001.

...Appellant/
3rd Respondent

Vs

1.R.Amala
2.Rajmohan

3.The Correspondent
Parani Nursery & Primary School
Periyapattu, Chidambaram Taluk.

4.R.Tamilarasi Respondents/
Respondents 1 & 2

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 25.06.2012 made in MCOP No.1002 of 2010 on the file of the Motor Vehicles Accident Claims Tribunal, Principal District Judge, Presiding Officer, Cuddalore.

For Appellant : Mr.J.Chandran

For R1 & R2 : Mr.Sreedhar

For R4 : No Appearance

JUDGMENT

This appeal has been preferred by the appellant Insurance Company against the award of a sum of Rs.3,00,000/- towards compensation to the respondents 1 and 2, due to the death of their son in a motor vehicle accident.

2.The case in brief, is as follows:

On fateful day, ie. on 23.11.2009 at about 19.15 hours, the deceased Ram was travelling in the school van (Mahindra van) bearing Reg.No.TN-31-P-1909 belonging to the third respondent and insured with the appellant Insurance Company, along with other students. The van was proceeding near Paravanaru bridge on the Chidambaram-Cuddalore Main Road to go to the school at Periyapattu. Due to the rash and negligent driving of the driver of the van, the van went to the road side field and got capsized. Due to the said impact, the said Ram sustained grievous injuries and died on the spot. The respondents 1 and 2, who are the father and mother of the deceased, filed a claim petition before the Tribunal claiming a sum of Rs.10,00,000/- as total compensation. On consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.3,00,000/- with interest at the rate of 6% per annum from the date of petition.

3.Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

4.The learned counsel for the appellant has submitted that the Tribunal has erred in holding that the appellant's van driver was rash and negligent and was responsible for the accident. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5.The learned counsel for the first and second respondents/ claimants in this appeal, has submitted that the Tribunal has correctly considered the materials and evidence available on record and has arrived at the just compensation and hence the same does not require any interference in the hands of this Court.

6.Heard the learned counsel for the appellant as well as the learned counsel for the first and second respondents and perused the materials available on record carefully and meticulously.

7.It was deposed before the Tribunal by P.W.2-Rajathilagam, eye-witness to the accident that on 23.11.2009 at about 9.15 hours, she was travelling in the van in question along with the deceased Ram, on the Chidambaram - Cuddalore Main Road and when the van reached near Periyapattu Paravanaru Bridge, the driver of the van drove it at high speed in a rash and negligent manner and dashed against a palm tree and due to the same, the deceased sustained multiple injuries and died on the spot. First

Information Report has been marked as Ex.P1. A criminal case has been registered by Puduchathiram Police, in Crime No.341/2009 against the driver of the Mahindra Van. Taking note of the evidence of P.W.2 and the First Information Report, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the van belonging to the third respondent. This Court is not inclined to interfere with the said factual finding rendered by the Tribunal.

8.In respect of the quantum of compensation, the Tribunal has awarded a consolidated sum of Rs.3,00,000/-. The Tribunal has relied upon the exhibits, evidence of witnesses, taken note of the principles enunciated in the judgment of the Hon'ble Supreme Court in the case of Sarla Verma and others v. Delhi Transport Corporation and another, reported in (2009) 4 MLJ 997, and all other aspects in a proper perspective and has awarded the above compensation amount to the claimant and hence the same is confirmed.

9.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Insurance Company is directed to deposit the award amount with interest and costs, as ordered by the Tribunal, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the respondents 1 and 2 / claimants are permitted to withdraw the same, on making proper application before the Tribunal.

-s/d-
Assistant Registrar

True copy
Sub-Assistant Registrar

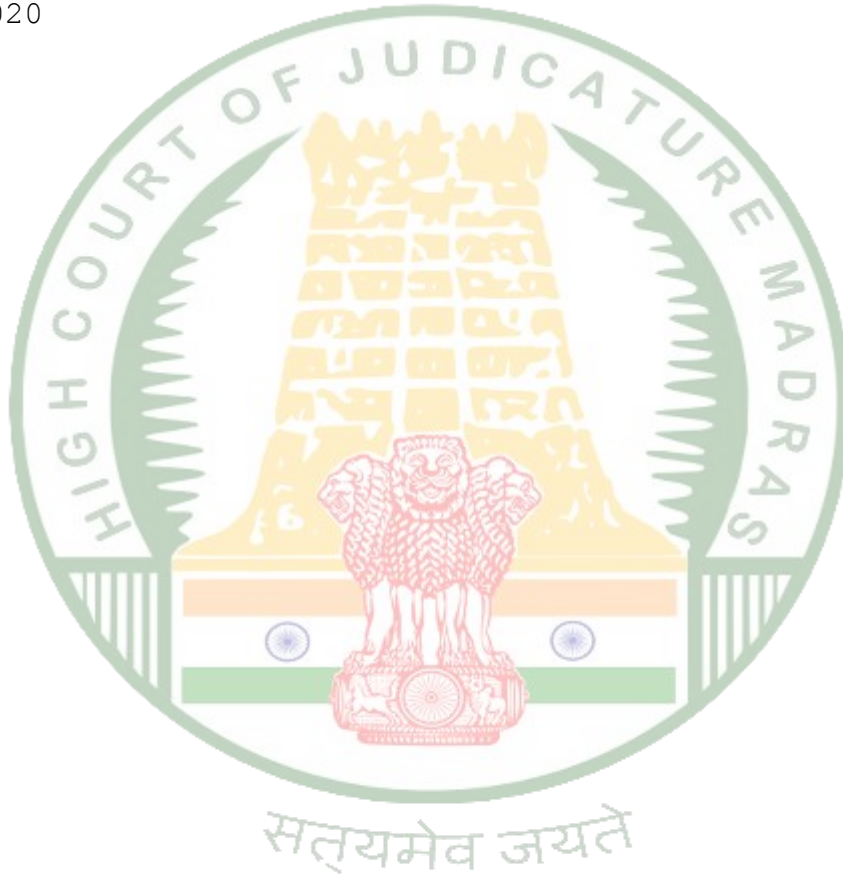
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To

- 1.The Principal District Judge,
Motor Accidents Claims Tribunal,
Cuddalore.
- 2.The Section Officer,
VR Section, Madras High Court.

+1 cc to Mr.R.Sreedhar Advocate sr95966
+1 cc to Mr.J.Chandran Advocate sr96490

C.M.A.No.129 of 2016
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