

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2106 of 2009

and

M.P.No. 1 of 2009

M/s National Insurance Company  
Kumaran Road, Tirupur. ...Appellant /Second Respondent

Vs

1. Chitra, W/o.Mohanasundram
2. Minor Kalyani D/o.Mohanasundram
3. Minor Mandrachalamoorthy, S/o.Mohanasundram  
minors represented by their mother Chitra/1<sup>st</sup> respondent
4. Natraj S/o.Mandhriappa Aasari
5. Saraswathi W/o.Nataraj
6. Ashok Kumar S/o.Subbaiyan
7. Muthuraj S/o.Paramasiva Pillai
8. United India Insurance Company Limited,  
144-B, Anna Nagar, Mettur Dam. ...Respondents

Prayer:Appeal filed under Section 173 of the Motor Vehicles Act against the Decree and Judgment passed in M.C.O.P.No.1136 of 2006 dated 29.02.2008 on the file of the Motor Vehicle Accident Claims Tribunal and Additional District Judge -cum -Fast Track Court No.5, Tirupur.

For Appellant : Mrs.N.B.Surekha

For Respondents 1 to 5 : Mr.S.Swaminathan

For Respondent-8 : Mrs.R.Sreevidhya

JUDGMENT

This appeal is preferred by the Appellant/ Insurance Company against the Decree and Judgment passed in M.C.O.P.No.1136 of 2006 dated 29.02.2008 on the file of the Motor Vehicle Accident Claims Tribunal and Additional District Judge-cum-Fast Track Court No.5, Tiruppur.

2.The case in brief, is as follows:

On the fateful day, ie. on 14.09.2006 at about 19:30 p.m when the deceased (Mohana Sundaram) was travelling in the car bearing Registration No.TN-04-2146 near Aavin milk Society, Sulthanpet, Palladam Main road, the lorry bearing Registration No.TN-28-W-9955 came from the opposite direction in a rash and negligent manner and dashed against the car. Due to the said impact, the deceased sustained multiple and grievous injuries and subsequently died. The legal heirs of the deceased filed a claim petition claiming a compensation of Rs.15,00,000/-. The Tribunal on consideration of the materials and evidence available on record, has arrived at a sum of Rs.6,69,000/- with interest at the rate of 7.5% p.a., from the date of petition, as total compensation.

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

4. The learned counsel for the appellant/Insurance Company has contended that the Tribunal erred in holding that the driver of the lorry was responsible for the accident. She further submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

5. Per contra the learned counsel for the respondents would contend that due to the sudden demise of the sole bread winner of the family, the family members are in a deprived condition. He further contended that the amount awarded by the Tribunal is very meagre, which needs significant enhancement.

6. Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7. Before the Tribunal, the wife of the deceased was examined as P.W.1, who has deposed that the accident had taken place due to the inattentive attitude of the driver of the lorry. P.W-2/Dharmaraj was the only eyewitness to the accident and he has deposed that at the time of the accident he was standing near Aavin Milk Society, Sulthanpet, Palladam Main Road and a lorry bearing Registration No.TN-28-W-9955 came from the opposite direction and dashed against the car of the deceased. Due to the impact, the deceased sustained multiple and grievous injuries and later died. The evidence of P.W.2 corroborates the contents of Ex.P1/F.I.R, which supports the case of the claimants rather than the appellant. On going through Ex.R.4/sketch it is clear that the lorry came in the wrong direction and invited the accident. The Tribunal has also observed that the deceased died instantaneously in the accident

due to the rash and negligent driving of driver of the lorry. Even though the appellant herein has adduced witnesses and evidence on their part, the same have not substantiated their claim. In these circumstances, the Tribunal held that the accident had occurred due to rash and negligent driving of the driver of the lorry, which finding this Court is not inclined to interfere.

8. With regard to the quantum of compensation, as against the claim of the claimants that the deceased was carpentary work and earning a sum of Rs.7,000/- per month, the Tribunal has fixed the monthly income of the deceased at Rs.4,000/- per month, deducted 1/3<sup>rd</sup> of the amount towards personal expenses of the deceased, applied 17 multiplier and arrived at the sum of Rs.5,44,000/- towards loss of income. As the minor respondents have lost their loveable father, Rs.30,000/- was awarded to each of them towards loss of love and affection, Rs.40,000/- towards loss of consortium to the wife of the deceased, Rs.20,000/- towards loss of love and affection to the parents of the deceased and Rs.5,000/- towards funeral expenses. This Court is of the view that the findings rendered on quantum by the Tribunal are based on settled principles of law, probabilities of case and weightage of evidence. Hence, the quantum arrived at by the Tribunal is perfectly valid in the eye of law and no interference is required.

9. In the result, the Civil Miscellaneous Appeal is dismissed. 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. The minor respondents would have attained majority by now. Hence, on such deposit being made, all the claimants are permitted to withdraw their respective shares, on making proper application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

srk/smn

To

The Motor Accidents Claims Tribunal  
Additional District Judge,  
Fast Track Court No.5, Tiruppur.

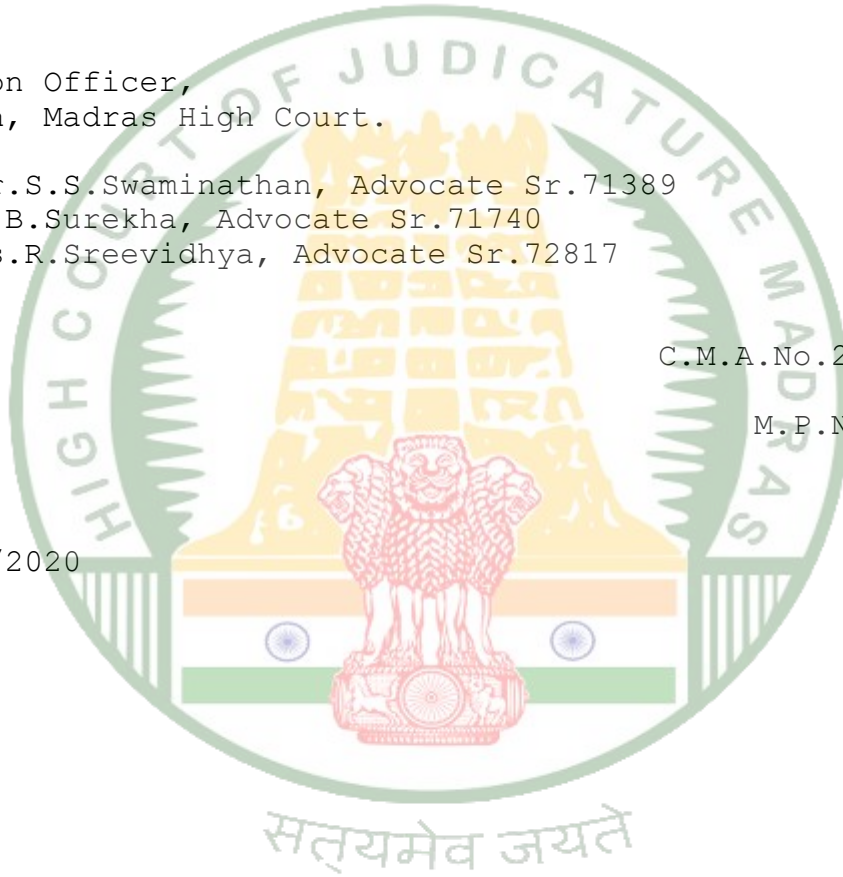
Copy to

The Section Officer,  
VR Section, Madras High Court.

+lcc to Mr.S.S.Swaminathan, Advocate Sr.71389  
+lcc to N.B.Surekha, Advocate Sr.71740  
+lcc to Ms.R.Sreevidhya, Advocate Sr.72817

C.M.A.No.2106 of 2009  
and  
M.P.No.1 of 2009

mr[co]  
srg 08/06/2020



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