

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3226 of 2008
and
M.P.No.1 of 2008

National Insurance Company Limited,
Cuddalore.

....Appellant

Vs.

1.Mrs.Arumbu

2.Paramanathan

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 20.11.2007 in M.C.O.P.No. 166 of 2006, on the file of the Motor Accidents Claims Tribunal, (Sub-Judge), Chidambaram

For Appellant : Mr.D.Bhaskaran

For R2 : No appearance

For R1 : Mr.Arvind Raj
for Mr.A.Murughan

J U D G M E N T

Challenging the maintainability of the M.C.O.P filed by the claim petitioner and raising the allegation that the first respondent/claimant is not the legal dependent of the deceased Kumar, the Insurance Company who is the appellant herein has filed the appeal.

2. The factum of the accident and the manner of the accident, involvement of the vehicle and the policy coverage are not in dispute. The finding of the rash and negligent is not in dispute and accordingly, the same is hereby confirmed. On the point of quantum of compensation is not in dispute and the same is hereby confirmed.

3. The learned counsel for the appellant would submit that though the claimant has stated that the first respondent/claimant is the paternal-aunt of the deceased Kumar

in the absence of any supporting document to that effect, she cannot be the claim petitioner under the Motor Vehicles Act.

4. Heard the learned counsel for the appellant and the learned counsel for the first respondent/claimant.

5. It is a specific evidence of P.W.1 that the deceased Kumar is the son of Kaliasamuthu, who is none other the brother of the first respondent-Arumbu. The claim petitioner's brother's son namely, the deceased Kumar was brought by her and after the death of her husband, she was supporting her and was living along with the deceased as a dependent. The said version remains un-challenged in the cross-examination and the Tribunal, gone into the said facts of the case arrived at the conclusion that the claim petitioner is the legal dependent and the same has been proved under the Motor Vehicle's Act.

6. Having been satisfied with the same, the Tribunal has rightly come to the conclusion that the claim petitioner/first respondent herein is the legal dependent of the deceased Kumar and accordingly, the same is hereby confirmed and the appeal is liable to be dismissed.

7. In the result,

i) This Civil Miscellaneous Appeal fails and the same is dismissed. No costs.

ii) The Insurance Company shall deposit the amount, if any (not yet deposited), within a period of eight weeks from the date of receipt of a copy of this judgment.

iii) On such deposit being made, the claimant shall withdraw the same in accordance with law. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar (CCC)

True Copy

Sub-Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
(Sub-Judge), Chidambaram.

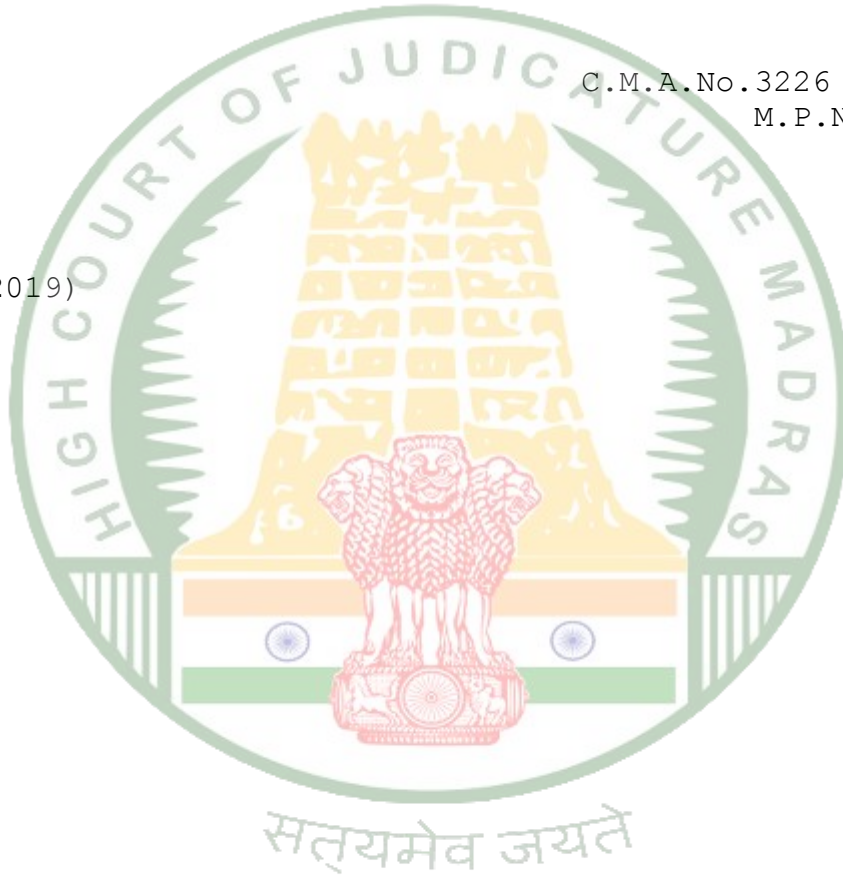
2. The Section Officer,
V.R.Section, High Court, Chennai.

+1 CC to Mr.D.Bhaskaran, Advocate sr 40411.

+1 CC to Mr.A.Murugan, Advocate sr 40466

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AD(CO)
SP(17/07/2019)



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