

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CMA.NO.389 OF 2014

The Branch Manager,
United India Insurance Co. Ltd.,
Chickpet Branch Office, Lakshmi Complex,
1st Floor, No.40, K.R.Road,
Fort, Bangalore - 560 002.

...Appellant/2nd Respondent

.Vs.

1.Elumalai

2.E.Vijaya

... Respondents 1 & 2/Petitioners

3.The Managing Director,
Bangalore Metropolitan Transport Corporation,
Central Offices, K.H.Road,
Shanthi Nagar, Bangalore - 560 002.

... 3rd Respondent/1st Respondent

Prayer:-

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 01.12.2011 passed in MCOP.No.610 of 2010 on the file of the Motor Accident Claims Tribunal/Principal District Court, Krishnagiri.

Appellant : Mr.S.Arunkumar

R1 and R2 : Mr.V.Vijayakumar

R3 : Mr.R.Ashwanth

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JUDGMENT

The appellant, Branch Manager, United India Insurance Company Limited is the second respondent in MCOP.No.610 of 2010 on the file of the Motor Accident Claims Tribunal / Principal District Court, Krishnagiri. The respondents 1 & 2 / claimants filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.5,00,000/- for the death of their daughter Lokeshwari, in a road accident on 02.05.2009.

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

On 02.05.2009, the deceased Lokeshwari, aged 4 years was a pedestrian on Krishnagiri - Uthangarai Main Road and at about 03.30 p.m, a speeding bus bearing Registration No. KA 01 FA 1003 hit her, as a result whereof, she sustained fatal injuries and died on the spot.

3. According to the claimants, the rash and negligent driving of the driver of the bus belonging to the third respondent was the cause of the accident and that since the said bus was insured with the present appellant / United India Insurance Company Limited, the owner and the insurer of the bus are jointly and severally liable to pay compensation.

4. The owner of the bus remained absent before the Tribunal and therefore, they were set ex-parte. The United India Insurance Company Limited contested the claim petition on all the grounds available to the insured. The learned Principal District Judge / Motor Accidents Claims Tribunal, Krishnagiri after analysing the evidence on record awarded a compensation of Rs.3,78,000/- together with interest at the rate of 6% per annum to the claimants. Questioning the quantum of compensation awarded by the Tribunal the United India Insurance Company Limited has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Heard Mr.S.Arunkumar, learned counsel appearing for the appellant, Mr.V.Vijayakumar, learned counsel appearing for the respondents 1 & 2 and Mr.R.Ashwanth, learned counsel appearing for the third respondent.

6. In the instant case, the deceased was aged 4 years on the date of the accident and the Tribunal after analysing the oral and documentary evidence, awarded a sum of Rs.3,78,000/- together with interest at the rate of 6% per annum. By no stretch of imagination, the quantum of compensation awarded by the Tribunal can be said to be on the higher side and in the facts and circumstances, the appeal is dismissed.

7. In the result,

- (i) The Civil Miscellaneous Appeal is dismissed. No costs.
- (ii) The order passed by the Tribunal is upheld.

Sd/-

Assistant Registrar (Insp.Cell)

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Sub Assistant Registrar

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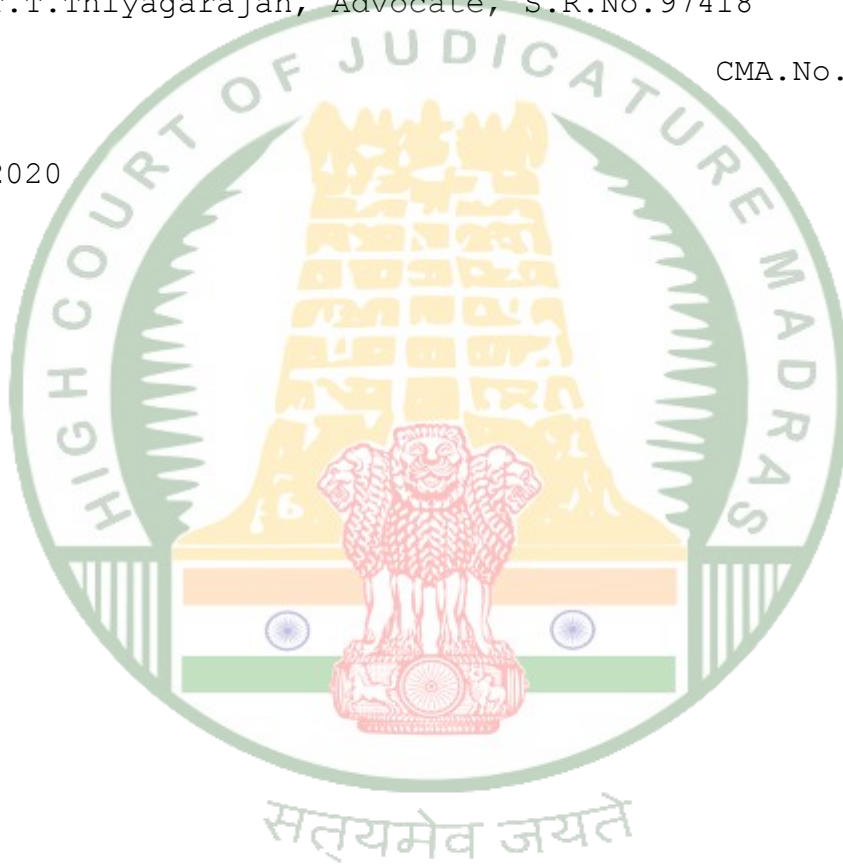
1. The Principal District Judge,
The Motor Accidents Claims Tribunal,
The Principal District Court,
Krishnagiri.
2. The Section Officer,
VR Section, High Court,
Madras-104

+1cc to Mr.S.Arunkumar, Advocate, S.R.No.96815

+1cc to Mr.T.Thiyagarajan, Advocate, S.R.No.97418

CMA.No.389 of 2014

BR(CO)
CS/14/12/2020



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