

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1897 of 2010

and

M.P.No.1 of 2010

(Through Video Conferencing)

National Insurance Company Ltd.,
Represented by its Branch Manager,
16, State Bank Road, Coimbatore.

...Appellant/2nd Respondent

Vs.

1.Sarasal

2.Minor Vaisaavi
rep. by her Guardian & Mother Sarasal

3.Minor Gayathiri
rep. by her Guardian & Mother Sarasal

4.Pappan

5.Palanal ...Respondents/Petitioners

6.Selvaraj ... Respondent/1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 11.06.2008 made in O.P.No.312 of 2007 on the file of the Motor Accidents Claims Tribunal (Additional District Judge/Fast Track Court No.V), Coimbatore at Thiruppur.

For Appellant : Mr.D.Bhaskaran

For R1 to R5 : No appearance

For R6 : Mr. Antony Jesus

J U D G M E N T

The appellant Insurance Company is aggrieved by the impugned Judgment and Decree dated 11.06.2008 passed by the, Motor Accident Claims Tribunal, Additional District Judge/Fast Track Court No. V, in M.C.O.P.No.312 of 2007.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.4,13,000/- as compensation together with interest at the rate of 7.5% per annum from the date of the claim petition till the date of payment, to the 1st to 5th respondents / claimants, who are the parents, the wife and the children of the deceased Murugan @ Murugesan who died in motor accident.

3. The accident is said to have taken place on 16.03.2007 at about 21.45 hours, when the deceased was travelling in the Van bearing registration No. TN-39-AD-7687 as a load man along with two other persons, when the driver of the van drove it rashly and negligently and hit against a tree, as a result of which, the deceased suffered grievous injuries and died later in the hospital. Therefore, the 1st to 5th respondents/claimants filed the above claim petition. The Tribunal after considering the evidence on record has awarded the aforesaid compensation. Aggrieved by the same, the Insurance Company has filed this Civil Miscellaneous Appeal.

4. In the present Civil Miscellaneous Appeal, the appellant Insurance Company has disputed the liability stating that the driver of the insured van did not possess the valid licence at the time of accident and the passengers were not entitled to travel in the insured vehicle.

5. I have considered the arguments advanced by the learned counsel for the appellant and the 6th respondent. I have also perused the evidence on record.

6. The argument of the learned counsel for the appellant is that more than eight persons including the deceased were travelling in the insured vehicle as load man at the time of accident and therefore, there was a violation of policy conditions as the policy covered only 2 employees. In the said accident, two load man including the deceased had died and two other load man had sustained injuries. However, the copy of the registration certificate of the insured vehicle has not been produced to substantiate the same.

7. However, from the nature of insured vehicle, it is noticed that the deceased was possibly travelling as an employee. Therefore, I do not find any reasons to interfere with the findings given by the Tribunal in the impugned Judgment and Decree.

8. Therefore, if the appellant Insurance Company has not deposited the amount of compensation awarded by the Tribunal, it is directed to deposit the same together with interest as directed by the Tribunal, less if any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment.

9. On such deposit, the 1st, 4th & 5th respondents / 1st, 4th & 5th claimants are permitted to withdraw their respective

shares together with interest accrued thereon, less if any amount already withdrawn, by filing suitable applications before the Tribunal.

10. Since the 2nd and 3rd respondents / 2nd and 3rd claimants are minors, their share shall deposit in anyone of the Nationalised Bank under the re-investment scheme till they attain majority. The 1st respondent/1st claimant, who is the natural guardian of the minors, is permitted to withdraw the accrued interest from the deposits of the minors once in three months directly from the said Bank. On attaining the majority, 2nd and 3rd respondents / 2nd and 3rd claimants may be permitted to withdraw their shares, by filing suitable application before the Tribunal.

11. Accordingly, this Civil Miscellaneous Appeal stands dismissed. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

jen

To:-

The Additional District Judge / Fast Track Court No.V
Motor Accidents Claims Tribunal,
Coimbatore at Thiruppur.

Copy To

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

WEB COPY

C.M.A.No.1897 of 2010
and M.P.No.1 of 2010

LN(CO)
GMY(20/04/2021)