

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.2468 of 2010

and

M.P.No.1 of 2010

(Through Video Conferencing)

The Divisional Manager,
The New India Assurance Co. Ltd.,
Vellore - 1. ... Appellant/2nd Respondent

Vs.

1.Chithra

2.Minor Sujatha

3.Minor Dharani

4.Minor Anitha

5.Padma

6.S.B.M.Oil Company,
Chennai - 600 107. ... Respondents/Petitioner's 1 to 5/
1st Respondent

(Minor 2nd to 4th respondents rep. by
Mother and NF 1st respondent)

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.44 of 2006, dated 09.02.2010, on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Cheyyar, Thiruvannamalai District.

For Appellant : Mr.M.B.Raghavan

For R1 to R4 : No appearance

J U D G M E N T

Though notice has been served on the contesting 1st to 4th respondents and the name of the 1st to 4th respondents has been printed in the cause list, there is no representation for them. The notice on the other respondents has also remained unserved.

2. Since this Civil Miscellaneous Appeal pertains to the year 2010 and no adverse order is proposed to be passed against the contesting 1st respondent to 5th respondents, this appeal is taken up for hearing and is disposed based on the submission of the learned counsel for the appellant.

3. The appellant Insurance Company is aggrieved by the impugned Judgment and Decree dated 09.02.2010 passed by the Motor Accidents Claims Tribunal cum Subordinate Court, Cheyyar, Thiruvannamalai District, in M.C.O.P.No.44 of 2006.

4. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.5,24,000/- together with interest at 7.5% per annum from the date of filing of the claim petition, till the date of deposit, to the 1st to 5th respondents/claimants, who are the legal heirs of the deceased Ravi.

5. The said Ravi died in a motor accident that took place on 28.06.2005 at about 10.45 p.m, when he was travelling in the Mini Door Van bearing registration No. TN.04-W-0685 insured with the appellant Insurance, driven by the driver of the 6th respondent owner in a rash and negligent manner, which hit a tree, as a result of which, the deceased suffered grievous injuries and thereafter he died in the hospital.

6. Therefore, the dependents (1st to 5th respondents) of the deceased Ravi filed the claim petition for compensation of Rs.9,00,000/-. After considering the fact and circumstances of the case, the Tribunal has awarded the aforesaid amount of Rs.5,24,000/- as compensation to them. Aggrieved by the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

7. Though the appellant Insurance Company has raised several grounds in this Civil Miscellaneous Appeal to assail the impugned Judgment and Decree, I am of the view that the Tribunal has given a categorically findings that the deceased was travelling as the owner of the goods at the time of the accident in the insured vehicle. In view of the express provision of Section 147 of the Motor Vehicles Act, 1988, I do not any merits in the present Civil Miscellaneous Appeal filed by the Insurance Company and therefore, this appeal is liable to be dismissed.

8. If the amount of compensation awarded by the Tribunal has been deposited by the appellant Insurance Company, it is

directed to deposit the same together with interest at 7.5% per annum from the date of filing of the claim petition till the date of such deposit, less the amount already deposited if any, within a period of six weeks from the date of receipt of the copy of this Judgment.

9. On such deposit, the 1st and 5th respondents are entitled to withdraw their respective shares together with interest as directed by the Tribunal, by filing suitable application before Tribunal.

10. If 2nd to 4th respondents have not been attained the age of majority, the Tribunal is directed to deposit the shares of the minor 2nd to 4th respondents in any one of the Nationalised Banks under the reinvestment scheme till they attain majority and permit the 1st respondent/guardian of the minors to withdraw the accrued interest on the shares of the 2nd to 4th respondents once in three months directly from the said Bank. On attaining the majority, the 2nd to 4th respondents are permitted to withdraw their shares together with interest accrued thereon, by filing suitable application before the Tribunal.

11. This Civil Miscellaneous Appeal is dismissed. No cost. Consequently, connected Miscellaneous Appeal is closed.

Sd/-
Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

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To:

1.The Subordinate Judge,
Motor Accidents Claims Tribunal,
Cheyyar, Thiruvannamalai District.

2. The Section Officer,
VR Section, High Court, Madras-104

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KK(CO)
GMY(16/04/2021)