

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2996 of 2009  
and  
MP.No.1 of 2009

The Oriental Insurance Co. Ltd.,  
Katpadi Road, Vellore. ....Appellant/7<sup>th</sup> Respondent

vs.

1.Amudha  
2.Gnanasoundari  
3.Jayabhavani  
4.Lalitha .... Respondents 1 to 4/  
Petitioners 2 to 5

5.Messers Videocon International Ltd.,  
No.69, Thirumalaipillai Street,  
T.Nagar, Chennai - 600 017.  
(5<sup>th</sup> Respondent remained exparte )  
6.The New India Assurance Co. Ltd.,  
Rep. by its Branch Manager, Vellore.  
7.N.K.R.Suryakumar  
8.N.K.R.Lakshmikumar  
9.N.K.R.Kabliswaran  
10.K.Sivanandam  
(10<sup>th</sup> Respondent is given up) vide in EB

... Respondents 5 to 10/  
Respondents 1 to 6

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Decree and Judgment dated 10.01.2007 in M.C.O.P.No.1113 of 2002 on the file of the Motor Accident Claims Tribunal (Fast Track Court, Additional District Judge), Tirupattur.

For Appellant : Mr.M.Krishnamoorthy

For Respondents:Mr.R.Neethiperumal for R6

R1 - Died  
R2, R4, R7 to R9 - served  
R3 - served, name printed - No appearance  
R5 - Exparte  
R10 - given up Vide in EB

## J U D G M E N T

The Oriental Insurance Company, the seventh respondent in MCOP.No.1113 of 2002 on the file of the Additional District Judge, Fast Track Court, Tirupattur has filed the present appeal questioning the liability and quantum of compensation awarded by the Tribunal.

2. The respondents 1 to 4 / claimants, who are the daughters, widowed daughter, widowed daughter-in-law, another claimant, namely Sivabackiyam, wife of the deceased filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 praying to award compensation of Rs.10,00,000/- for the death of N.K.Raja in a road accident that took place on 14.05.1997.

3. The case of the respondents 1 to 4 before the Tribunal is that on 14.05.1997, at about 03.30 pm, the deceased Raja was travelling along with some others in a car bearing Registration No.TN 25 Z 0115 towards Vellore and at that time, a lorry bearing Registration No.MTF 3159 driven by its driver in a rash and negligent manner, hit the car, as a result of which, Raja died on the spot. The said Raja was popular public figure in Vellore District and he was the Natrampalli Union Secretary. He was also performing cement and steel business and also contract works and earning Rs.20,000/- per month. Therefore, they filed MCOP.No.1113 of 2002 seeking compensation of Rs.10,00,000/- for the death of Raja.

4. Since the respondents 7 to 9 are the legal heirs / sons of the deceased Raja, they have filed a counter stating that they are also entitled for the equal amount of compensation and pleaded to award compensation for them.

5. The appellant / seventh respondent before the Tribunal has also filed a detailed counter affidavit denying the manner of accident and stated that there is a composite negligence on the part of all the drivers and pleaded to dismiss the claim petitions.

6. The learned Additional District Judge, Fast Track Court, Tirupattur after analysing the documents and evidences on record, held that the said lorry bearing Registration No.MTF 3159 was responsible for the accident and awarded a compensation of Rs.3,25,000/- together with interest at the rate of 7.5% per annum and directed the appellant herein to pay the compensation. Challenging the said award dated 10.01.2007 in M.C.O.P.No.1113 of 2002, the appellant / Oriental Insurance Company has filed the present appeal under Section 173 of the Motor Vehicles Act.

7. The learned counsel appearing for the appellant / Insurance Company contended that the Tribunal ought to have dismissed the claim petition as the driver of the ambassador car in which the deceased was travelling, drove the car in a rash and negligent manner without driving licence. He further submitted that the ambassador car came in the wrong side and dashed against the lorry owned by the tenth respondent and duly insured with the appellant and then a car owned by the fifth respondent and duly insured with the sixth respondent rammed against the ambassador car from behind. He therefore submitted that the Tribunal ought to have held that the driver of all three vehicles involved in the accident were responsible for the accident. He also submitted that the compensation awarded by the Tribunal is excessive since the deceased person was aged more than 62 years on the date of the accident and prayed for reducing the same.

8. Heard the learned counsel appearing for the appellant / Insurance Company and the learned counsel appearing for the sixth respondent and perused the materials available on record.

9. From the materials available on record, it is seen that the Tribunal taking note of the First Information Report (Ex.P1) has held that the lorry bearing Registration No.MTF 3159, belonging to the tenth respondent, namely, Sivanandam and insured with the appellant / Insurance Company is responsible for the accident. Infact, the Tribunal has analysed the documentary and oral evidence before coming to such a conclusion. After perusing the available records, this Court is also of the view that there is no sufficient evidence to prove the contentions of the appellant / Insurance Company. Therefore, the conclusion arrived by the Tribunal, in this regard, is hereby confirmed.

10. As far as the quantum of compensation is concerned, in the claim petition it is contended that the deceased was aged 60 years, doing Cement and Steel business, earning a sum of Rs.20,000/- per month. The Tribunal based on the oral and documentary evidence fixed a sum of Rs.7,500/- as the monthly income of the deceased and deducted 1/3rd of his income towards his personal expenses, which would come to Rs.5,000/-. The Tribunal assuming that atleast the deceased would have lived for five more years, calculated the compensation amount as Rs.3,00,000/- (Rs.5,000/- x 60 months), which in the opinion of Court is reasonable and hence it is hereby confirmed. Further, the compensation awarded by the Tribunal under other heads are also just and reasonable and are hereby confirmed. Therefore, the Decree and Judgment dated 10.01.2007 passed in M.C.O.P.No.1113 of 2002 on the file of the Additional District Judge, Fast Track Court, Tirupattur is upheld.

11. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mbi

To

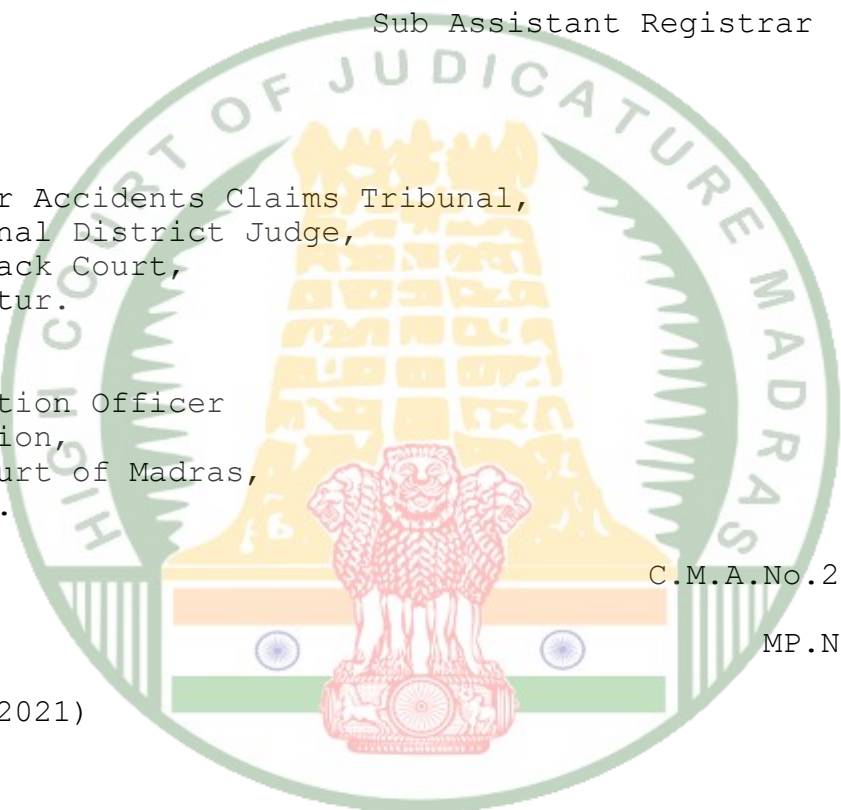
1.The Motor Accidents Claims Tribunal,  
Additional District Judge,  
Fast Track Court,  
Tirupattur.

Coopy To :

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

C.M.A.No.2996 of 2009  
and  
MP.No.1 of 2009

RSI (CO)  
RMP (19/04/2021)

The seal of the High Court of Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion capital of Ashoka in front of it. The gopuram is set against a background of a green and white striped field. The words "HIGH COURT OF JUDICATURE MADRAS" are inscribed in a green circle around the central image. Below the seal, the motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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