

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.791 of 2010

and

M.P.No.1 of 2010

(Through Video Conferencing)

The New India Assurance Co. Ltd.,
1360, Amman Complex,
E.V.N. Road, Erode. ... Appellant/4th Respondents

Vs.

1.Siddayee
2.Palaniammal
3.Kaliyammal
4.Madhammal ... Respondents 1 to 4 /Petitioners
5.D.Sivashankar
6.K.Karunanidhi
7.M.Vivekanandan ... Respondents 5 to 7/Respondents 1 to 3
8.Sevigounder
9.Sengodan
10.Chinnaian
11.Selvan
12.Ammasai Respondents 8 to 12 / Respondents 5 to 9
13.Chandra
14.Palaniammal
(5th, 6th, 7th & 9th respondents remained
exparte before the tribunal
... Respondents 13 & 14/Respondents 10 & 11

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the decree and judgment dated 08.07.2009, made in M.C.O.P.No.214 of 2003 on the file of Motor Accidents Claims Tribunal (Fast Track Court No.4), Bhavani and to dismiss the above claim petition.

For appellant : Mr.J.Chandran
For R1 to R4 : M/s.Zeenath Begam
For R13 and R14: No appearance

For R8 died steps not taken to
bring LRS

For R5 to R7 & R9 - Ex-Parte

For R10 to R12 Not Ready in Notice

J U D G M E N T

The Insurance Company is the appellant and is aggrieved by the impugned Judgment and Decree dated 08.07.2009 passed by the Motor Accident Claims Tribunal, Fast Track Court No.4, Bhavani, Erode District in M.C.O.P.No.214 of 2003.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.3,63,000/- as compensation 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 4th respondents and 8th to 14th respondents.

3. It is noticed from the records that the 5th to 7th respondents and 9th respondent remained exparte before the Tribunal and the 8th respondent died during the course of the proceedings. However, no effective steps were taken to implead the legal heirs of the 8th respondent. Notice on the 10th to 12 is not ready. However, since no adverse orders are proposed to be passed against them, this Civil Miscellaneous Appeal is taken up for final hearing.

4. The 1st to 4th respondents were claimants before the Tribunal. The claim petition was filed by them as the legal representatives of deceased Rangammal who was allegedly aged about 58 years at time of the accident. The accident is said to have taken place on 11.09.2002 at about 7.00 a.m while the deceased Rangammal walking along with Chandra who is the 13th respondent herein, when a insured vehicle bearing registration No.TN-01-F-3076 belonging to the 6th respondent insured with appellant Insurance Company driven by the 5th respondent in a rash and negligent manner and knocked them down. It is said that in the said accident, the said Rangammal suffered grievous injuries and later died on 26.09.2002 while undergoing treatment.

5. It is stated that at the time of the accident, the said deceased Rangammal was healthily and was a vegetable vendor and was earning a sum of Rs.3,000/- per month and was supporting her family members, i.e. claimants. It is stated that the deceased was not only affectionate the 1st to 4th respondents (claimants) but also the other respondents namely, 8th to 14th respondents.

6. The Tribunal after considering the evidence on record has awarded a sum of Rs.3,63,000/- as compensation even though in the claim petition, the compensation was restricted to Rs.3,00,000/-. The claimants have not file any cross objection and an appeal for enhancement of compensation.

7. It has been argued that the Tribunal wrongly held that the insured vehicle was involved in the accident. It was further submitted that in any event, the amount awarded was excessive and was liable to be reduced. It is further

submitted that as per the Exhibit R2 dying declaration, she was living alone and therefore, it is submitted that none of the claimants, namely, 1st to 4th respondents and 8th to 14th respondents were dependants for the purpose of compensation.

8. It is further submitted that a sum of Rs.3,000/- which was considered as the notional monthly income of the deceased was excessive since she was aged about 58 years and therefore, the Tribunal erred in awarding the compensation of Rs.3,63,000/-. It is further submitted that the claimants are the step children and step grandchildren of the deceased. Therefore, the amounts awarded towards loss of love and affection of the step mother to the 1st, 3rd and 4th respondent and the step grandmother of the 2nd respondent was without any jurisdiction. The Tribunal has come to a conclusion on fact that there was no proof to substantiate that deceased Rangammal was the stepmother and the step grandmother of the claimants or that they were not dependants on her.

9. I have considered the arguments advanced by the learned counsel for the appellant Insurance Company and the learned counsel for the 1st to 4th respondents/claimants.

10. The impugned Judgment and Decree of the Tribunal, in my view, is well reasoned and requires no interference. If the claimants were fully depended on the deceased, this Court would have re-quantified the compensation and would have awarded higher amount of compensation in the light decisions of the Hon'ble Supreme Court in Sarla Verma (Smt) and Others Vs. Delhi Transport Corporation and Another, (2009) 6 SCC 12 and in National Insurance Company Limited Vs. Pranay Sethi and Others, (2017) 16 SCC 680 and in Magma General Insurance Company Limited Vs. Nanuram @ Chuhru Ram and Others, (2018) 18 SCC 130 : 2018 OnLine SC 1546.

11. Therefore, even if the deceased was a step mother and the step grandmother, the compensation awarded cannot be said that was excessive. Considering the above, I am inclined to confirm the compensation awarded by the Tribunal. Therefore, this Civil Miscellaneous Appeal is liable to be dismissed.

12. Therefore, the appellant Insurance Company is directed to deposit the entire amount of compensation together with interest and costs as directed by the Tribunal, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment.

13. On such deposit, the 1st to 4th respondents and 8th to 14th respondents are permitted to withdraw their shares together with interest thereon and proportionate costs as directed by the Tribunal, less any amount already withdrawn, by filing suitable application before the Tribunal.

dismissed. No cost. Consequently, connected Miscellaneous
Petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

jen

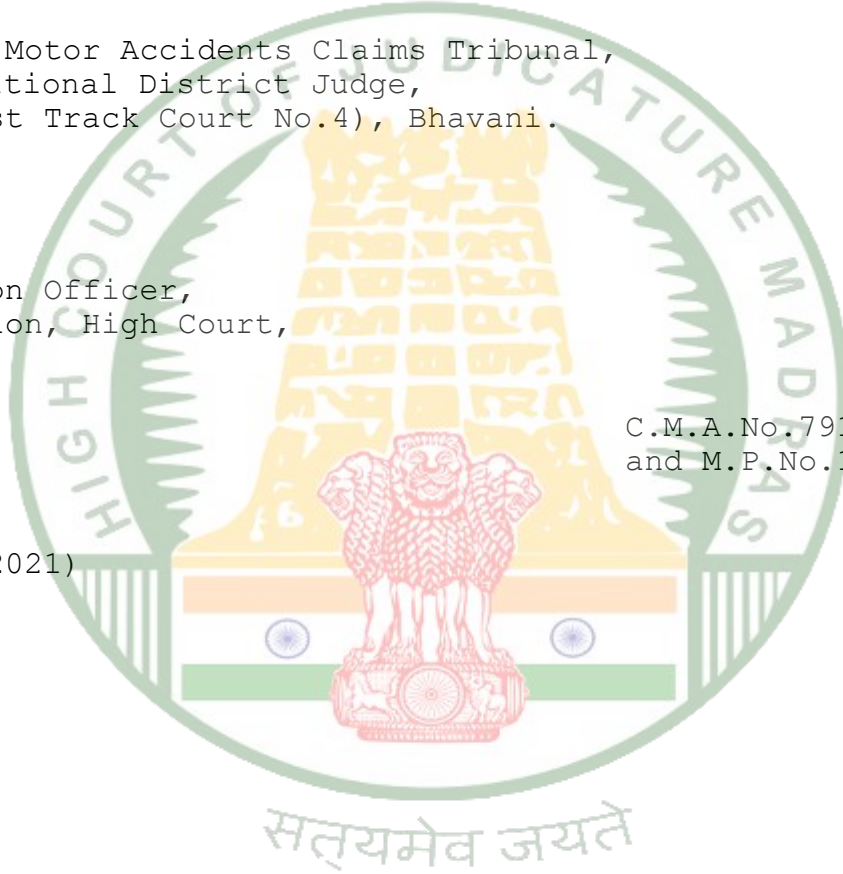
To:- The Motor Accidents Claims Tribunal,
Additional District Judge,
(Fast Track Court No.4), Bhavani.

Copy To

The Section Officer,
V.R. Section, High Court,
Madras.

MR (CO)
GN (13/05/2021)

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