

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3207 of 2011

and

M.P.No.1 of 2011

(Through Video Conferencing)

United India Insurance Co. Ltd.,
Divisional Office,
No.2, Dr.Sankaran Road,
Namakkal.

... Appellant/2nd Respondent

Vs.

1.Ganesan
2.Anbalagan
3.Kannan
4.Selvi (Died)
5.Velayee
6.Allimuthu
7.Tamilselvi
8.Vinothini
9.Prabha
10.Minor. Sathya prabhu
11.Minor.Vijay

... Respondents/Claimants

12.Abdul Mugasker Ahmeed

.. Respondent 5 to 11 LRS of
the deceased 4th respondent
.. 12th Respondent/1st Respondent

(Minors 10th and 11th respondents represented by natural guardian Father Allimuth. RR5 to 11 brought on record as LRS of the deceased 4th respondent vide order of court dated 30.09.2016 in M.P.No.1 of 2015 in C.M.A.No.3207 of 2011)

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 21.12.2010 made in M.C.O.P.No.474 of 2008 on the file of the Motor Accidents Claims Tribunal, Sub Court, Rasipuram.

For Appellant : Mr.S.Arun Kumar
For R1 to R3 & R5 : Mr.Lokesh for
Mr.Ma.Pa.Thangavel
R4 : Died
R6 to R11 : 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 21.12.2010, passed by the Motor Accidents Claims Tribunal, (Sub Court), Rasipuram in M.C.O.P.No.474 of 2008.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.3,55,000/- as compensation together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit and cost, to the 1st to 5th respondents/claimants, who are the dependents of the deceased Ramasamy.

3. The deceased Ramasamy died in a motor accident while he was riding the bicycle, at Athur main road, near Primary School, Konaripatti, when a lorry bearing registration number K.A.01-C-2422 insured with the appellant Insurance Company driven in a rash and negligent manner, hit the deceased, as a result of which, he sustained grievous injury and died before being admitted in the hospital. The 1st to 5th respondents herein therefore claimed a compensation of Rs.7,00,000/- on various heads. After considering the facts and circumstances and evidence on record, the Tribunal awarded a sum of Rs.3,55,000/- as compensation vide the impugned Judgment and Decree dated 21.12.2010.

4. The impugned Judgment and Decree of the Tribunal has been challenged by the appellant Insurance Company on the ground that there is no basis to come to the conclusion that the 1st to 5th respondents/claimants were entitled to the aforesaid compensation. It is further submitted that the Tribunal failed to note that 1st to 4th respondents/claimants were not the dependents on the deceased and the 5th respondent was not solely dependent on the deceased.

5. It is further submitted that the Tribunal erred in fixing the notional income of the deceased as Rs.3,000/-. It is further submitted that the Tribunal failed to note that the Ex.P3 was issued by the statutory authority after verifying the

information furnished therein while so the age of the deceased ought to have fixed at 56 years.

6. The learned counsel for the 1st to 3rd and 5th respondents submits that the impugned Judgment and Decree is in order and requires no interference.

7. Heard the learned counsel for the appellant and the learned counsel for the 1st to 3rd and 5th respondents. The 4th respondent died during the pendency of this Civil Miscellaneous Appeal and therefore, the legal representatives of the deceased 4th respondent were impleaded as 6th to 11th respondents vide order dated 30.09.2016 of this Court in M.P.No.1 of 2015, though, there are not ready in notice.

8. I have considered the arguments advanced by the learned counsels for the appellant and the 1st to 3rd and 5th respondents. I have also perused the evidence on record and the impugned Judgment and Decree passed by the Tribunal.

9. The dispute pertains to the year 2008 and the accident is said to have taken place on 08.11.2007. The notional income of the deceased fixed by the Tribunal appears to be reasonable, though, the Hon'ble Supreme Court in Syed Sadiq Vs. United India Insurance Co.Ltd., 2014 (1) TN MAC 459, had fixed the income of a vegetable vendor as Rs.6,500/- per month.

10. Considering the above, I find no merits in the present Civil Miscellaneous Appeal filed by the appellant Insurance Company. Therefore, the amount awarded in the impugned Judgment and Decree by the Tribunal is confirmed.

11. The appellant Insurance Company is directed to deposit the award amount together with interest at 7.5% per annum from the date of filing of the claim petition till the date of deposit and cost and cost if any, as was directed by the Tribunal in the impugned Judgment and Decree, less amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this Judgment.

12. On such deposit, the 1st to 3rd and 5th respondents/ 1st to 3rd and 5th claimants are entitled to withdraw the compensation together with interest and cost in the same proportion as was directed by the Tribunal, by filing suitable application before the Tribunal. Since the 4th respondent died during the pendency of the present Civil Miscellaneous Appeal, whose legal heirs were impleaded as the 6th to 11th respondents, they are entitled to withdraw the amount awarded to the deceased 4th respondent equally, by filing suitable application before the Tribunal.

13. Accordingly, this Civil Miscellaneous Appeal is dismissed with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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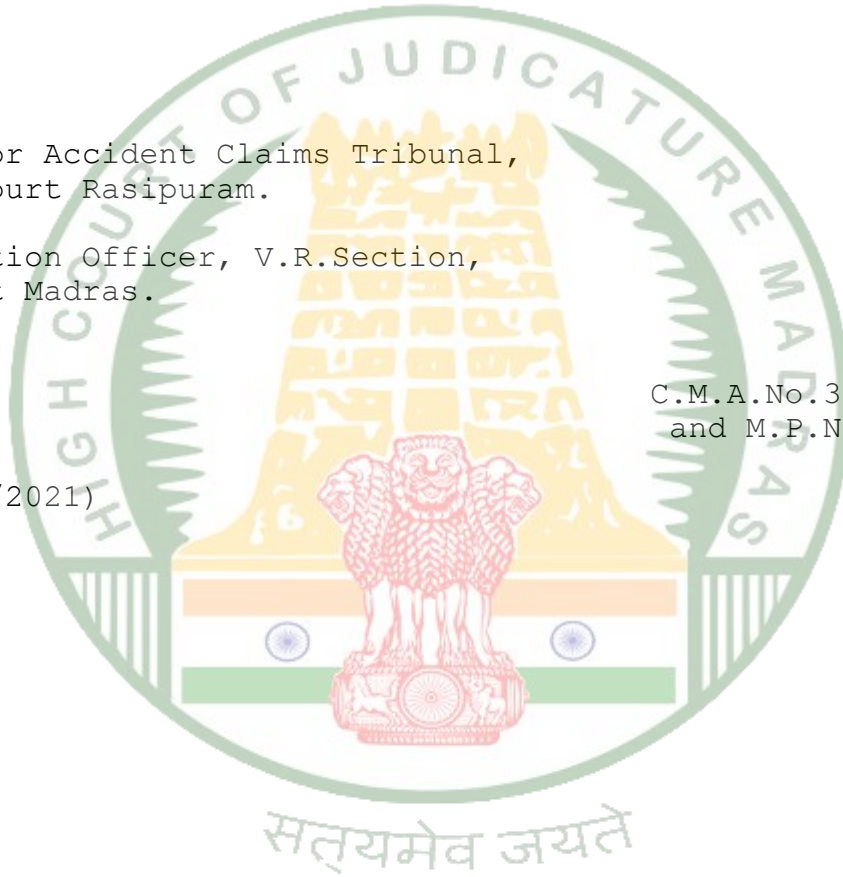
To:

1.The Motor Accident Claims Tribunal,
The Sub Court Rasipuram.

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

C.M.A.No.3207 of 2011
and M.P.No.1 of 2011

CP(CO)
RMP(21/01/2021)



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