

In the High Court of Judicature at Madras

Dated:10.02.2020

Coram

The Honourable Mrs. Justice V.BHAVANI SUBBAROYAN

C.M.A.No.3051 of 2013

and M.P.No.1 of 2013

S.Krishnaveni

... Appellant /2nd Respondent

Vs..

1.Sridharan

...RR1 & 2/RR1 & 3

2.United India Insurance Co. Ltd.,
1170, Mettur Road,
Muthiah Complex,
II Floor, Erode.

3.Murugan

4.Minor Rahini

5.Minor Aarthi
(Minors rep. by their next friend
and guardian Murugan)

... RR3 to 5/Petitioners

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed by the learned II Additional District Judge, (MACT), Erode in M.C.O.P.No.226 of 2011 dated 31.07.2012.

For Appellant : Mr.M.Guruprasad

For Respondent-2 : Mrs.I.Malar

For Respondent-3 : Mr.R.Thirumoorthy

JUDGMENT

This appeal has been filed by the appellant/owner of the offending vehicle against the award dated 31.07.2012 passed by the Motor Accident Claims Tribunal/ learned II Additional District Judge, Erode in M.C.O.P.No.226 of 2011 where the claim petition filed by the claimants was allowed in part and a sum of Rs.4,04,000/- with 7.5% interest per annum was awarded, wherein 50% liability has been fasten on the appellant herein, who is the owner of the lorry.

2.Heard Mr.M.Guruprasad, learned counsel for the appellant and Mrs.I.Malar, learned counsel for the second respondent/Insurance Company as well as Mr.R.Thirumoorthy, learned counsel for the respondents/claimants.

3.According to the appellant, at the time of accident, his lorry was stolen and in support of her contention, Ex.D1/complaint copy and Ex.D2/FIR were marked. She also contented that appellant's husband DW2 had deposed the same before the Tribunal.

4.The learned counsel for the appellant submitted that the deposition of DW.2 and exhibits D1 and D2 were not considered by the Tribunal. He further submitted that the Tribunal had erred in fixing 50% liability on the appellant and prayed that the appellant/owner of the lorry has to be exonerated from the liability to pay the compensation.

5.The learned counsel appearing on behalf of the second respondent/Insurance Company submitted that the Tribunal on considering the oral and documentary evidence, had rightly exonerated their liability as the driver of the offending vehicle had no valid license at the time of accident and hence pleaded that the judgment passed by the Tribunal warrants no interference.

6.The learned counsel for the respondents/claimants drew the attention of this Court that aggrieved against the quantum of compensation and dismissing the claim petition as against the Insurance Company, the claimants had preferred an appeal before this Court. He further submitted that this Court, by an order dated 21.02.2019 in CMA.No.1340 of 2019, had enhanced the compensation and also directed the Insurance Company to pay the compensation and recover the same from the driver as well as owner of the vehicle in view of the well settled proposition and prayed this Court to dismiss the appeal.

7.I have given careful consideration to the submissions made by the respective counsels.

8.Considering the submissions made by the respective counsels and in the light of the judgment passed by this Court in CMA.No.1340 of 2019, this Court is of the considered view that as rightly contended by the Tribunal, the owner as well as the driver of the offending vehicle are liable to pay the compensation. It is also made clear that as per the judgment of this Court dated 21.02.2019 made in CMA.No.1340 of 2019, the Insurance Company is directed to pay the compensation to the claimants and recover the same from the appellant herein/owner and driver of the lorry.

9.In the result, the Civil Miscellaneous Petition stands dismissed. Consequently connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The II Additional District Court,
(The Motor Accident Claims Tribunal)
Erode.

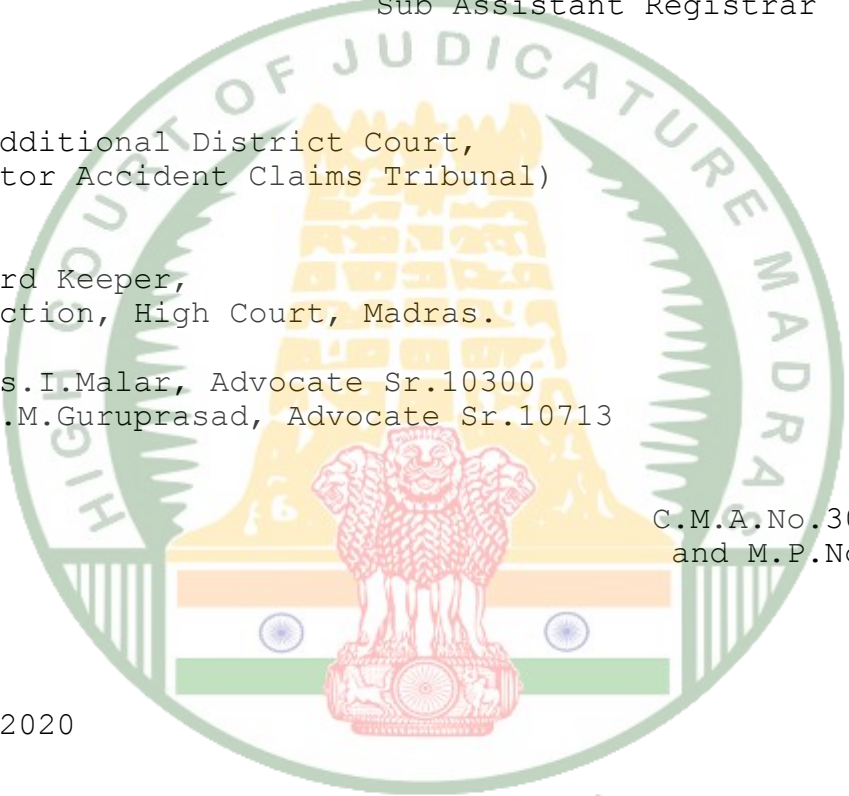
2.The Record Keeper,
V.R. Section, High Court, Madras.

+1cc to M/s.I.Malar, Advocate Sr.10300

+1cc to Mr.M.Guruprasad, Advocate Sr.10713

C.M.A.No.3051 of 2013
and M.P.No.1 of 2013

ev[co]
srg 30/11/2020



सत्यमेव जयते

WEB COPY