



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 15.10.2020

Coram::

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.M.A.68 of 2016
& C.M.P.No.689 of 2016

Reliance General Insurance Company Limited,
Office working at 1st Floor, Gee Jay Arcade,
No.141/71, T.V.Samy Road (West),
R.S.Puram (Post),
Coimbatore - 641 002.

... Appellant/3rd Respondent

/versus/

1. N.Latha Devi,
W/o.Nagaraj.

... 1st Respondent/Petitioner

2. Minor N.Vishnu Chakravarthi, 13 years,
S/o.Nagaraj.

3. Minor N.Lavanya, 10 years,
D/o.Nagaraj.

4. D.Kamalan, 67 years,
W/o.Duraisamy.

5. P.Davasiappan,
S/o.Palanisamy.

6. K.N.Balasubramanian,
S/o.C.K.Natarajan.

... 2 to 6 Respondent/Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 11.09.2014 made in M.C.O.P.no.707 of 2011 on the file of the Motor Accidents Claims Tribunal, III Additional District Judge, Dharapuram.

For Appellant : Mr.S.Arun Kumar
For Respondents : No appearance

J U D G M E N T

(The Case has been heard through Physical Hearing)

Heard the Learned Counsel for the appellant. Despite notice to the respondents, they have not entered appearance.

2. This Appeal is filed by the Insurance Company against the award passed by the Tribunal on the ground that, the Tribunal has failed to note that the accident occurred due to negligence of the victim and not due to the negligence of the lorry driver, which is insured under the Appellant/Insurance Company and the rough sketch marked as Ex.R.2 not been properly appreciated by the Tribunal.

3. The Appeal is filed challenging the liability as well as quantum of award passed by the Tribunal.

4. The facts of the case is that, on 26.02.2011 when the deceased was riding his TVS Victor motorcycle bearing registration No.TN-33-AZ-6229 from North to South, a lorry bearing registration No.TN-37-AM-1531 proceedings on the same direction, rash and negligently and hit the deceased while over taking the two wheeler. The deceased died on the spot.

5. The Tribunal has awarded a sum of Rs.15,50,000/- as compensation for the claimants i.e., wife, two minor daughters, two sons and mother. The Tribunal fixed the responsibility on the insurer based on the F.I.R registered against the 1st respondent/insured vehicle driver.

6. Taking note of the salary certificate Ex.P.10, the monthly income of the deceased was fixed at Rs.11,000/- per month, after deducting 1/4th towards his personal expenditure, awarded a sum of Rs.14,85,000/- for loss of income.

7. The main point canvassed in this Appeal is that, the Tribunal has not appreciated the sketch marked as Ex.R.2 in proper manner, so as to fix the negligence on the part of the deceased two wheeler.

8. This Court, on perusing the sketch marked as Ex.R.2, not able to arrived at a conclusion that there was contribution on the part of the two wheeler. Since, the accident has occurred at Trichy-Karur Main road very close to the median. The police has registered F.I.R against the lorry driver and no contra evidence to show that there was any negligence on the part of the deceased two wheeler rider.

9. Therefore, the contention of the appellant is not sustainable. Hence, this Court finds there is no merit in this Appeal. Hence, the Second Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar

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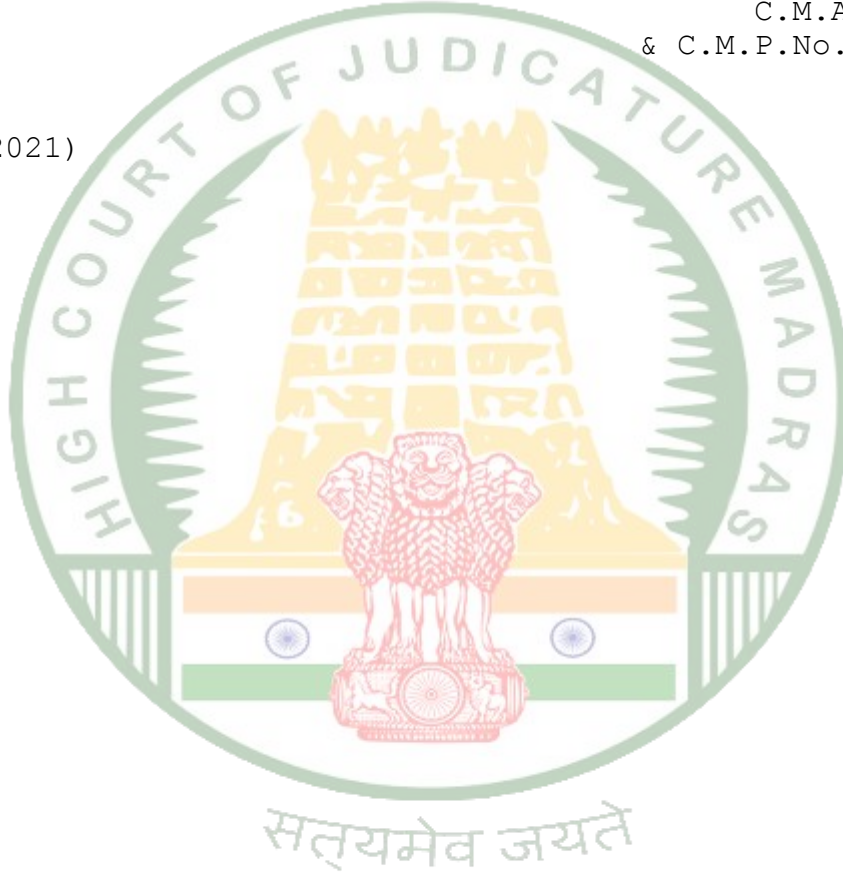
To:-

1. The Motor Accidents Claims Tribunal,
III Additional District Judge,
Dharapuram.
2. The Section Officer,
V.R.Section, High Court, Madras.

+lcc to Mr.S.Arunkumar, Advocate, S.R.No. 34616

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