

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3013 of 2014
and
M.P.No.1 of 2014

United India Insurance Co. Ltd.,
represented by its Branch Manager
having office at Cuddalore. Appellant/2nd Respondent

..Vs..

- 1.Santhi
 - 2.Minor Dineshkumar
 - 3.Minor Rajeshkumar
 - 4.Minor Satishkumar
 - 5.Minor Maheswari
 - 6.Minor Anandhi
(Minors 2 to 6 represented by
their mother/natural guardian
1st respondent/Santhi)
 - 7.Panneerselvam
 - 8.Krishnaveni
 - 9.Swaminathan
 - 10.Mahendran
 - 11.The New India Assurance Company Ltd
represented by its Branch Manager
having office at
Bharathiyar Street
Karaikal.
- ...1 to 8 Respondents/1 to 8 Petitioners
...9th Respondent/1st Respondent
...10th Respondent/3rd Respondent
...11th Respondent/4th Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 25.04.2014 made in OP.No.250 of 2012, on the file of the Motor Accident Claims Tribunal (District Court), Nagapattinam.

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For Appellant : Mr.D.Bhaskaran

For Respondents : Mr.M.Govindaraju
for R1, R7 & R8
Mr.Krishnamoorthy for R11
R2 to R6 minors, rep. by R1
R9 & R10- Not Ready in Notice

J U D G M E N T

(This Appeal was taken up for hearing through Video Conferencing)

This appeal has been filed by the Appellant/Insurance Company challenging the award dated 25.04.2014, passed by the the Motor Accident Claims Tribunal / District Court, Nagapattinam, in MCOP.No.250 of 2012.

2. Heard Mr.D.Bhaskaran, learned counsel for the Appellant, Mr.M.Govindaraju, learned counsel for the respondents 1, 7 & 8 and Mr.M.Krishnamoorthy, learned counsel for R11.

3. The Appellant has filed this appeal primarily on the ground that they are not liable to compensate the claim of the claimants, since only due to the rash and negligent driving by the deceased Govindaraj, who was the driver of the bus bearing Registration No.PY-02-AP 7177, the accident had happened.

4. It is the contention of the Appellant that four vehicles were involved in the accident and the insured vehicle was in a stationary possession due to an earlier incident. According to them, the deceased could have very well avoided the accident, if he had maintained a reasonable distance between his vehicle, namely the bus and the insured vehicle.

5. Insofar as the quantum of compensation awarded by the Tribunal is concerned, the Appellant/Insurance Company has not raised any grounds challenging the assessment of the Tribunal.

6. Before the Tribunal, the claimants have filed seven documents which were marked as Ex.P1 to Ex.P7 and three witnesses were examined on their side namely, the wife of the deceased as PW1, an eye witness to the accident as PW2 and Mr.Elamaran, the Manager of the Universal Transport Service, Karaikal in which the deceased was working as a driver at the time of the accident as PW3 who has deposed before the Tribunal about the income details of the deceased at the time of the accident. On the side of the Appellant Insurance Company, three documents were filed which were marked as Ex.R1 to R3 and one witness was examined as RW1.

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7. The same contention i.e., raised in this appeal was raised by the Appellant/Insurance Company before the Tribunal. The same has been duly considered by the Tribunal under the impugned award in paragraph no.13.

8.The Tribunal has rejected the contention of the Appellant/Insurance Company on the following grounds:

a) The accident had taken place all of a sudden and in a fraction of seconds.

b) It is clear from the evidence of PW2 that the deceased could not have averted the accident.

c) Since three vehicles were already involved in the accident, the road was completely blocked and therefore, it is impossible for the deceased Govindaraj to avert the accident.

d) FIR (Ex.P1) was registered only against the driver of the lorry and not the driver of the bus who was the deceased.

e) The driver of the lorry also ran away from the place of the accident immediately after the accident took place which only proves that the driver of the lorry was guilty of the accident.

f) The driver of the lorry insured with the Appellant was not examined as a witness by the Appellant.

g) Oral evidence adduced by PW2 corroborates the contents of the FIR.

9. The Tribunal has held that the driver of the lorry which is insured with the Appellant alone responsible for the cause of the accident which resulted in the death of Govindaraj. This Court has also perused the evidence and materials available on record and this Court is of the considered view that the finding given by the Tribunal as against the driver of the lorry insured with the Appellant is a correct finding and it does not call for any interference by this Court.

Conclusion:

10. For the forgoing reasons, there is no merit in this appeal. Accordingly, this appeal shall stand dismissed. The Appellant Insurance Company is directed to deposit the Award amount together with interest from the date of claim till the date of deposit and costs as assessed by the Tribunal after deducting the amount already deposited, if any to the credit of MCOP.No.250 of 2012 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the respective shares of award amount along with accrued interest to the bank accounts of the first, seventh and eighth respondents/claimants through

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RTGS within a period of two weeks thereafter. Since the respondents 2 to 6 are minors, their respective shares of award shall be deposited in an interest bearing fixed deposit in any one of the nationalised banks till they attain majority. The first respondent/mother of the minors are permitted to withdraw the interest once in six months for the welfare of the minors. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

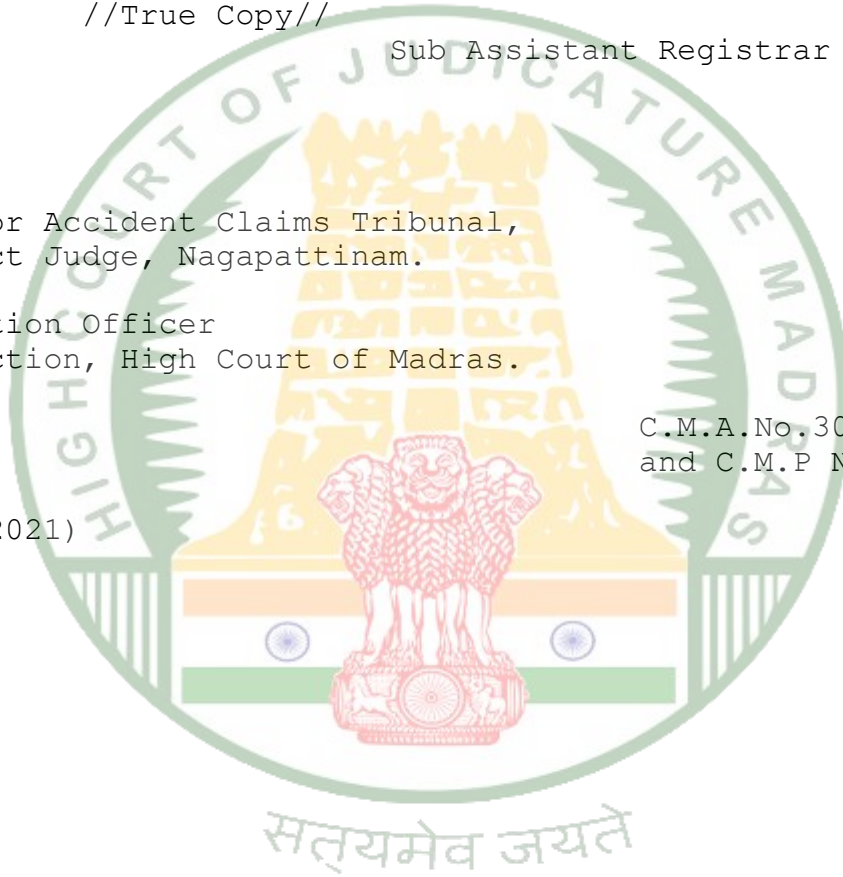
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To

- 1.The Motor Accident Claims Tribunal,
District Judge, Nagapattinam.
- 2.The Section Officer
V.R.Section, High Court of Madras.

C.M.A.No.3013 of 2014
and C.M.P No.1 of 2014

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