

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 31.07.2020
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.854 of 2017
and C.M.P.No.4296 of 2017

United India Insurance Co.Ltd.
Branch Office: R.P.R.Complex
Bye-Pass Road
Near Government Hospital,
Dharmapuri.

... Appellant/2nd Respondent

Vs.

1.Poongodi
2.Minor Aravind
3.Minor Vijay
4.Chinnammal
5.Ranganathan
(Minor respondents 2 and 3 rep.by
Next Friend and mother, the first
respondent herein).
6.G.C.Ranganathan

... Respondents/Petitioners &
1st Respondent

Appeal filed under Section 173 of Motor Vehicles Act, 1988,
against the judgment and decree dated 07.06.2010 made in
M.C.O.P.No.291 of 2007 on the file of the Motor Accidents Claims
Tribunal (Principal District Judge) at Krishnagiri.

For Appellant : Mr.J.Chandran

For Respondents : Mr.P.Mani for R1 to R5
No appearance for R6

J U D G M E N T

This appeal has been preferred by the appellant Insurance
Company against the award of a sum of Rs.4,79,000/- towards
compensation to the respondents 1 to 5/claimants, due to the
death of the husband of the first respondent in a motor vehicle
accident.

2.The case in brief, is as follows:

On the fateful day, ie., on 24.04.2006, the deceased Madesh and three others, employed as labourers for loading and unloading hollow blocks, were loading hollow blocks in the trailer attached with tractor both bearing Reg.No.TN-29-H-0355 belonging to the sixth respondent and insured with the appellant Insurance Company. Thereafter they travelled in the trailer along with hollow blocks to unload the same at Palayam. The tractor started at Rayakotta at about 09.00 p.m.and it was proceeding in the Rayakotta - Panjapalli Highways Road. When the vehicle reached near Vedampatti Branch Road at about 10.30 p.m., due to the rash and negligent driving, the driver lost his control and while giving way to a bus coming from the opposite direction, the tractor went to the extreme left side of the road, ran over the pit and got capsized. Due to the same, the deceased and others fell down on the ground and consequently the hollow blocks crushed them and due to the impact, they sustained injuries. The deceased sustained grievous injuries and he succumbed to the injuries. The wife, minor sons and parents of the deceased filed a claim petition before the Tribunal claiming a sum of Rs.10,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.4,79,000/- with interest at the rate of 6% per annum from the date of petition.

3.Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

4.The learned counsel appearing for the appellant-Insurance Company has submitted that even though the tractor-trailer was authorised to be used only for agricultural purpose, at the time of accident it was carrying cement stones and passengers and further, several persons were sitting on the cement stones and in the absence of any additional premium being paid, the risk is not required to be covered under the Motor Vehicles Act nor covered under the Policy. Stating so, he submitted that the appellant Insurance Company is not liable to pay any compensation to the claimants on the ground of violation of policy conditions.

5.The learned counsel for the respondents 1 to 5 / claimants has submitted that the Tribunal has rightly considered the materials and evidence and has correctly arrived at the conclusion that the Insurance Company is liable to pay compensation to the claimants and further the compensation

awarded is just, fair and reasonable and hence the same need not be interfered with by this Court.

6. Heard the learned counsel appearing for the appellant and the learned counsel for the respondents 1 to 5 / claimants and perused the materials available on record.

7. With regard to the aspect of liability, the owner of the vehicle was examined as R.W.2 before the Tribunal. He deposed before the Tribunal that the vehicle was used only for agricultural purpose as the hollow blocks were bought for construction of well. In this connection, Ex.B1-Driver's License of the driver of the tractor-trailer and Ex.B2-Receipt for purchase of hollow blocks from M/s. Sri Vinayaka Hollow Blocks, Rayakottai, have been produced before the Tribunal. R.W.1-Driver of the vehicle, deposed before the Tribunal clearly that the hollow blocks were transported in the vehicle only for construction of well and it was not used for any business purpose. Taking note of the above, the Tribunal came to the conclusion that the appellant Insurance Company is liable to pay compensation to the claimants, which factual finding this Court is not inclined to interfere.

8. The quantum of compensation awarded by the Tribunal is not disputed and no grounds have been raised with regard to this aspect on the side of the appellant. Further, this Court finds that the Tribunal has relied upon the exhibits and evidence of witnesses, took note of the II Schedule of the Motor Vehicles Act and all other aspects in a proper perspective and has awarded the compensation under various heads to the claimants. Furthermore, this Court is of the considered view that the amounts awarded by the Tribunal towards various heads are reasonable and justifiable and hence the same are confirmed.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Insurance Company is directed to deposit the award amount with interest and costs, as ordered by the Tribunal, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. The Tribunal has awarded compensation only to the respondents 1 to 4, observing that the fifth respondent is not a dependent of the deceased as per Legal Heir Certificate. Hence, on such deposit being made, the respondents 1 and 4 / major claimants are permitted to withdraw their respective shares, on making proper application before the

Tribunal. The shares of the second and the third respondents - minors shall be deposited in a fixed deposit in any one of the Nationalised Banks, till the minors attain majority. The interest accrued in the bank deposit shall be withdrawn by the first respondent-mother of the minors, once in three months directly from the bank, which shall be utilised for the benefit and welfare of the minors.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

KM

To

1.The Principal District Judge,
Motor Accidents Claims Tribunal,
Krishnagiri.

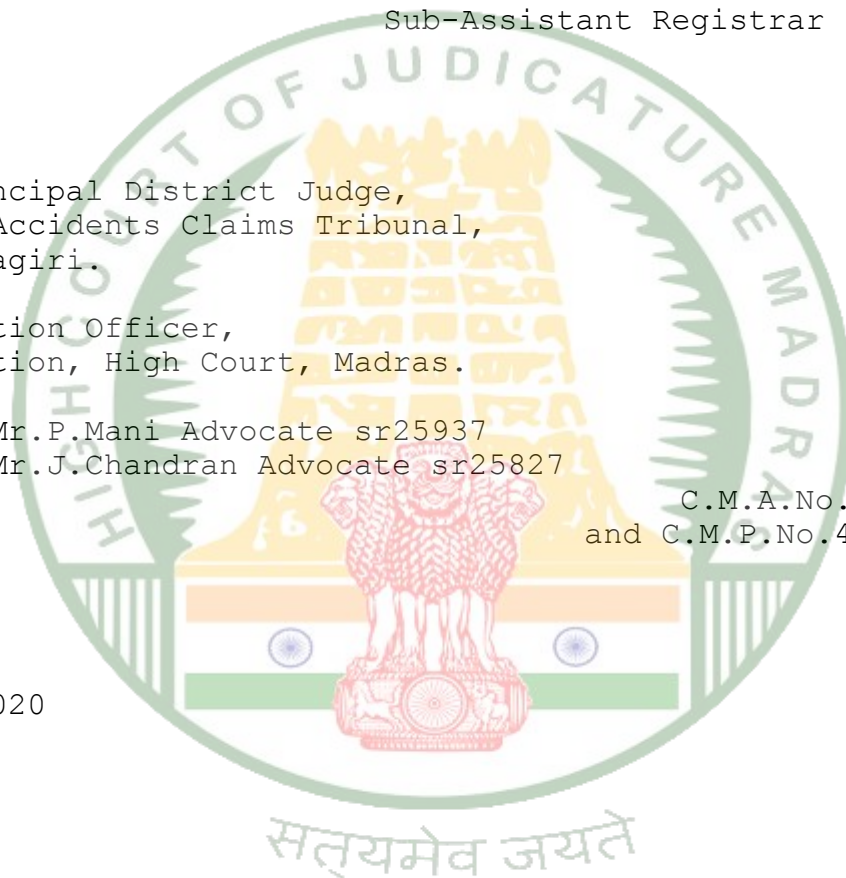
2.The Section Officer,
VR Section, High Court, Madras.

+1 cc to Mr.P.Mani Advocate sr25937

+1 cc to Mr.J.Chandran Advocate sr25827

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