



C.M.A(MD)No.970 of 2009

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2022

CORAM:

**THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN**

**C.M.A(MD)No.970 of 2009**

**and**

**M.P(MD)Nos.2 of 2009 & 1 of 2012**

National Insurance Company  
12-A, Sarvait Convent Building,  
Opp., District Court,  
Sub-Collector Office Road,  
Dindigul.

... Appellant/2<sup>nd</sup> Respondent

Vs.

1.Lakshmi

2.Jeyavel

3.Perumal

4.Porammal

5.Sikkammal

... Respondents/ Petitioners 1 to 5

6.Panju @ Panchavarnam

... 6<sup>th</sup> Respondent/ 1<sup>st</sup> Respondent

**PRAYER:** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying this Court to set aside the fair and decretal order dated 14.11.2007 and made in MCOP.No.503 of 2006 on the file of the Motor Accident Claims Tribunal (Additional District and Sessions Judge/Fast Track Court), Dindigul.



WEB COPY



C.M.A(MD)No.970 of 2009

For Appellant : Mr.S.Srinivasa Raghavan  
For Respondents : Mr.B.Venkatesh (for R1 to R4)  
Mr.N.Marivel (for R5)  
B.Selvaraj (For R6)

### **JUDGMENT**

This Civil Miscellaneous Petition has been filed to set aside the fair and decretal order, dated 14.11.2007 made in MCOP.No.503 of 2006 on the file of the Motor Accident Claims Tribunal (Additional District and Sessions Judge/Fast Track Court), Dindigul.

2.In an accident which occurred on 30.01.2006, the first respondent's husband, namely, Durai @ Duraiyan had died. Hence, the respondents 1 to 5 made a claim in MCOP.No.503 of 2006 on the file of the Motor Accident Claims Tribunal (Additional District and Sessions Judge/Fast Track Court), Dindigul claiming compensation of Rs.6,00,000/-. Resisting the claim petition, the appellant and the sixth respondent had filed counter denying the manner of accident. Considering the oral and documentary evidence adduced on either side, the Tribunal awarded compensation of Rs.1,90,000/- with 7.5% interest



C.M.A(MD)No.970 of 2009

per annum from the date of claim. Aggrieved by the said award, the appellant has filed this appeal.

3.The learned counsel appearing for the appellant submitted that the deceased had travelled in the said vehicle without consent of the owner of the vehicle and the accident had occurred due to the restlessness of the cattles travelling in the said vehicle. He further submit that the deceased being an unauthorized passenger is not covered by the policy of insurance. Hence, he prays for allowing this appeal.

4.The learned counsel appearing for the respondents 1 to 4 submitted that on considering the materials and evidence available on record, the Tribunal has rightly come to the conclusion that negligence is on the part of the van driver only and hence, the appellant is liable to pay compensation.

5.Considering the facts and circumstances of the case and also on perusal of Ex.P1, it is proved that the negligence is on the part of the van driver only and hence, the appellant is liable to pay compensation, this Court is not inclined to allow this appeal. Hence, the award passed by



C.M.A(MD)No.970 of 2009

the Motor Accident Claims Tribunal (Additional District and Sessions Judge/Fast Track Court), Dindigul. in MCOP.No.503 of 2006 dated 14.11.2007 does not warrant any interference and the same is confirmed. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

**06.09.2022**

Index :Yes/No  
Internet :Yes/No  
sm

To  
1.Motor Accident Claims Tribunal,  
(Additional District and Sessions Judge  
/Fast Track Court), Dindigul.  
  
2.The Record Keeper,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



WEB COPY



C.M.A(MD)No.970 of 2009

**A.A.NAKKIRAN .,J.**

sm

JUDGMENT MADE IN  
**C.M.A(MD)No.970 of 2009**

**06.09.2022**