



C.M.A.No.1739 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1739 of 2012

And

M.P.No.1 of 2012

The Branch Manager
M/s.National Insurance Co. Ltd.,
Pondicherry.

... Appellant

Vs.

1.Valli
2.Sowndari
3.V.Selvaraj
4.Saravanan

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree passed in M.C.O.P.No.440 of 2011, dated 26.08.2011 on the file of the Motor Accidents Claims Tribunal (Additional District Judge) Fast Track Court No.I of Tindivanam at Villupuram District.

For Appellant : Mr.J.Chandran

For Respondents : Mr.K.Mohammed Hydher Ali for R1 & R2
for Mr.D.Ravichander
R3 and R4 – NRN

J U D G M E N T

The second respondent Insurance Company before the Motor



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Accidents Claims Tribunal is the appellant herein. This appeal has been filed seeking to set aside the order dated 26.08.2011 passed by the Motor Accidents Claims Tribunal (Additional District Judge) Fast Track Court No.I of Tindivanam at Villupuram District in M.C.O.P.No.440 of 2011.

2.The brief facts of the case is that on 02.04.2007, the deceased Ganesan carried his flower baggages in the third respondent's vehicle bearing Registration No.PY-01-AA-8666 at Rajampuliyur village to Tindivanam Flower Market. When the vehicle was nearing Veampoondi, P.V.Polytechnic in Gingee – Tindivanam Road, the driver drove the vehicle in a rash and negligent manner and the vehicle toppled, due to which, the said Ganesan sustained serious injuries and was admitted in Government Hospital in Tindivanam and thereafter, he was referred to JIPMER and he succumbed to his injuries.

3.Thereafter, the daughters of the deceased Ganesan/ respondents 1 and 2 filed claim petition before the Motor Accidents Claims Tribunal (Additional District Judge) Fast Track Court No.I of Tindivanam at Villupuram District, claiming compensation of Rs.10



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Lakhs. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.2,07,000/- with interest at the rate of 7.5% p.a. from the date of petition till the date of payment and costs and directed the appellant Insurance Company to pay the compensation. Aggrieved by the same, the appellant Insurance Company has filed this appeal.

4.The learned counsel appearing for the appellant submitted that the deceased travelled as gratuitous passenger without any authorization from the owners of the vehicle/ respondents 3 and 4. Further, the policy is an Act policy and it does not cover the passengers who travelled in a goods vehicle and only the driver of the vehicle is entitled for claiming compensation. In the present case, the deceased travelled as a gratuitous passenger and hence the claimants are not entitled for any compensation, however, the Tribunal awarded a sum of Rs.2,07,000/- with interest at the rate of 7.5% p.a. from the date of petition till the date of payment and costs and directed the appellant Insurance Company to pay the compensation, which is not sustainable one.

5.Heard the learned counsel appearing for the appellant as well



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as the learned counsel appearing for the respondents 1 and 2 and perused the materials available on record. Though notice ordered to the respondents, service awaited with regard to the respondents 3 and 4.

6. Admittedly, on 02.04.2007, the deceased Ganesan carried his flower baggages in the vehicle owned by respondents 3 and 4 from Rajampuliyur village to Tindivanam Flower Market. When the vehicle was nearing Veampoondi, P.V. Polytechnic in Gingee – Tindivanam Road, the driver drove the vehicle in a rash and negligent manner and the vehicle toppled, due to which, the said Ganesan sustained serious injuries and was admitted in Government Hospital in Tindivanam and thereafter, he was referred to JIPMER and he succumbed to his injuries.

7. In the present case, the deceased is the owner of the goods and he travelled along with the goods. As per Section 147 of the Motor Vehicles Act, the owner of the goods is entitled for compensation for the damage caused to the goods or for him. Accordingly, the legal heirs of the deceased/ claimants are entitled for compensation. The Tribunal properly appreciated the factual



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findings and awarded compensation, which warrants no interference.

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8.The civil miscellaneous appeal stands dismissed. The Judgment and Decree passed in M.C.O.P.No.440 of 2011, dated 26.08.2011 by the Motor Accidents Claims Tribunal (Additional District Judge) Fast Track Court No.I of Tindivanam at Villupuram District is confirmed.

9.The appellant/ Insurance Company is directed to deposit the entire award amount before the Tribunal within a period of four weeks from the date of receipt of a copy of this order, less the amount if any, already deposited. On such deposit being made, the claimants/ respondents 1 and 2 are permitted to withdraw their respective shares as apportioned by the Tribunal, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal.

10.The civil miscellaneous appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

10.10.2023

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Speaking Order/ Non Speaking Order
Index: Yes/ No Internet: Yes/ No

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M.DHANDAPANI,J.
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To

- 1.The Motor Accidents Claims Tribunal
(Additional District Court)
Fast Track Court No.I of Tindivanam at
Villupuram District.

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