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C.M.A.Nos.1459 of 2016 and 1738 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.1459 of 2016 and 1738 of 2019

And

C.M.P.No.5479 of 2019

The Divisional Manager
M/s.The New India Assurance
Company Limited,
Division III,
'Saifee Building' I Floor,
Nanpura,
Gujarat – 395 001.

... Appellant in C.M.A.1459/2016

Shriram General Insurance Co. Ltd.,
E-8, RIICO Industrial Area,
Sitapura, Jaipur,
Rajasthan – 302 022.

... Appellant in C.M.A.1738/2019

Vs.

1.Nagamma
2.Vasantha
3.V.Murugesh

4.M/s.Shriram General Insurance
Company Limited
E-8 RIICO Industrial Area,
Sitapura, Jaipur,
Rajasthan – 302 022.

5.M/s.Ideal Movers Pvt. Ltd. ... Respondents in C.M.A.1459/2016

1.Nagamma
2.Vasantha
3.V.Murugesh



C.M.A.Nos.1459 of 2016 and 1738 of 2019

4.M/s.Ideal Movers (P) Ltd.

5.Divisional Manager

The New India Assurance Co. Ltd.,
D.O.III, 1st Floor,
Saifee Building,
Dutch Road, Nanpura,
Gujarat – 395 001.

... Respondents in C.M.A.1738/2019

Prayer in C.M.A.No.1459 of 2016:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment dated 18.11.2015 passed in M.C.O.P.No.1006 of 2013 by the Hon'ble Motor Accidents Claims Tribunal, (Special District Court) at Krishnagiri.

Prayer in C.M.A.No.1738 of 2019:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 18.11.2015 made in M.C.O.P.No.1006 of 2013 on the file of Motor Accident Claims Tribunal, (Special District Court) Krishnagiri.

For Appellants : Mr.J.Michael Visuvasam
in C.M.A.No.1459 of 2016

Mr.S.Dhakshnamoorthy
in C.M.A.No.1738 of 2019

For Respondents : Mr.Mukund R.Pandian for R1 and R2
Mr.S.Dakshinamoorthy for R4
R3 & R5 – No Appearance
in C.M.A.No.1459 of 2016

Mr.Mukund R.Pandian for R1 and R2
R3 & R4 – NRN
Mr.J.Michael Visuvasam for R5



C.M.A.Nos.1459 of 2016 and 1738 of 2019

in C.M.A.No.1738 of 2019

COMMON JUDGMENT

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These civil miscellaneous appeals have been filed against the judgment and decree dated 18.11.2015 in M.C.O.P.No.1006 of 2013 passed by the Motor Accident Claims Tribunal, (Special District Court) Krishnagiri.

2.The fourth respondent before the Motor Accident Claims Tribunal is the appellant in C.M.A.No.1459 of 2016. The second respondent before the Motor Accident Claims Tribunal is the appellant in C.M.A.No.1738 of 2019.

3.The brief facts of the case is that on 13.09.2013 at about 16.30 hours the deceased Srinivas was driving the Tipper Lorry bearing Registration No.TN 47/U 7806 and when the vehicle was proceeding near the Karivayan Kottai situated at Periyampatti in Krishnagiri to Dharmapuri Road, the driver of a Truck bearing Registration No.NL-01/G 9331, which was carrying TATA Ace and which was going in front of the lorry, suddenly stopped the Truck in the middle of the road without any signal or stopping due to which the Tripper Lorry dashed against the Truck and the deceased died on the



C.M.A.Nos.1459 of 2016 and 1738 of 2019

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4. Thereafter, the dependants of the deceased Srinivas/ claimants filed claim petition before the Motor Accident Claims Tribunal, claiming compensation of Rs.20 Lakhs.

5. After adjudication, the Motor Accident Claims Tribunal (Special District Court) Krishnagiri, awarded a sum of Rs.12,35,000/- as compensation to the claimants and directed that the respondents 1 and 2 in the claim petition shall jointly and severally deposit 50% of the compensation and the fourth respondent in the claim petition shall deposit 50% of the compensation and shall collect the same from the third respondent in the claim petition, along with interest at the rate of 7.5% p.a. from the date of petition till realization and proportionate costs, within a period of 60 days, failing which, to pay interest at the rate of 9% till the date of payment after the period of 60 days. Aggrieved by the same, both the Insurance Company/ respondents 2 and 4 in the claim petition have filed these appeals.

6. The learned counsel appearing for the respective Insurance Company submitted that at the time of accident the deceased did not



C.M.A.Nos.1459 of 2016 and 1738 of 2019

possess valid licence for driving heavy vehicles. He only possessed LMV licence. Without any valid licence, the Tribunal fixing contributory negligence and directing the respective Insurance Company to deposit the compensation amount is not sustainable one.

7.The learned counsel appearing for the claimants/ respondents 1 and 2 submitted that this Court may set aside the impugned judgment and decree and grant liberty to the claimants/ respondents 1 and 2 to raise the dispute before the Workman Compensation Court as against the owner of the vehicles and the Insurance Company.

8.In view of the fair submission made by the learned counsel appearing for the claimants/ respondents 1 and 2, this Court set aside the judgment and decree dated 18.11.2015 made in M.C.O.P.No.1006 of 2013 by the Motor Accident Claims Tribunal, (Special District Court) Krishnagiri. Liberty is granted to the claimants/ respondents 1 and 2 to work out the remedy in the manner known to law. The period during which these appeals were pending before this Court and the period during which the claim petition was pending before the Tribunal is excluded for the purpose of limitation and to enable the respondents 1 and 2 to work out the remedy in the manner known to law.



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C.M.A.Nos.1459 of 2016 and 1738 of 2019

M.DHANDAPANI,J.

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9.The civil miscellaneous appeals are allowed with above terms.

The decree and judgment dated 18.11.2015 made in M.C.O.P.No.1006 of 2013 by the Motor Accident Claims Tribunal, (Special District Court) Krishnagiri, is set aside. No costs. Consequently, the connected miscellaneous petition is closed.

16.10.2023

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1.The Motor Accident Claims Tribunal
(Special District Court) Krishnagiri.

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and 1738 of 2019**

And

C.M.P.No.5479 of 2019

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