



C.M.A.No.676 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**C.M.A.No.676 of 2018
And
C.M.P.No.5947 of 2018**

The Divisional Manager,
National Insurance Company Limited,
DO-1, LRN Building,
LRN Hotel Near Sarada College Road,
Salem 636 007.

... Appellant

Vs.

1.M.Sudha
2.Minor.Abirami
3.Minor.Meyyazhagan

(2nd and 3rd Respondents
Rep. by Mother/ Guardian M.Sudha
1st respondent)

4.Valarmathi
5.Bhuvaneshwari
6.Minor.Thenmozhi
7.Minor.Mathubala
8.Minor.Kavin

(6th to 8th respondents
Rep. by Mother/ Guardian Valarmathi
4th respondent)

Pazhaniyammal (died)

9.S.Gnasekaran

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10.Jayapriya

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment passed in M.C.O.P.No.1241 of 2014 on 03.03.2017 on the file of the learned (Special District Court) The Motor Accidents Claims Tribunal at Salem District and be pleased to dismiss the above claim and allow the CMA.

For Appellant : Mr.J.Chandran

For Respondents : Mr.S.P.Yuvaraj for R1 to R3

R4, R6 to R8 – No Appearance

R5, R9 and R10 – Disd.

Vide order dated 09.07.2024.

J U D G M E N T

The eighth respondent before the Motor Accidents Claims Tribunal is the appellant herein. This appeal has been filed against the judgment and decree dated 03.03.2017 passed by the (Special District Court) The Motor Accidents Claims Tribunal at Salem District, in M.C.O.P.No.1241 of 2014.

2.The learned counsel appearing for the appellant submitted that the respondents 1 to 3 filed claim petition before the Motor Accidents Claims Tribunal claiming compensation of Rs.20 Lakhs for the death of the first respondent's husband Murugesan alleging that on 17.05.2013



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at about 13.00 hours the deceased Murugesan was riding in his motorcycle bearing Registration No.TN-34-F-1015 on the Salem to Kovai Bypass Road at Pallakkapalayam 'U' Turn. At that time, TATA Safari car bearing Registration No.TN-39-AM-0011 belonging to the ninth respondent came from the same direction in a rash and negligent manner and hit the motor cycle, due to which, the deceased lost his life.

3.The learned counsel appearing for the appellant further submitted that the respondents 1 to 8 and 10 are the legal heirs of the deceased Murugesan. The learned counsel further submitted that after adjudication, the Tribunal awarded a sum of Rs.10,26,000/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of realisation as compensation to the legal heirs of the deceased and directed the appellant to deposit the compensation.

4.The learned counsel appearing for the appellant further submitted that at the time of accident, the ninth respondent did not possess any valid licence and hence, the Tribunal directing the appellant to deposit the compensation is not sustainable one.



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5.Heard the arguments advanced on either side and perused the materials available on record.

6.Perusal of records disclose that this Court vide order dated 09.07.2024 has dismissed this appeal as not pressed as against R5, R9 and R10. When this appeal has already been dismissed as not pressed as against R9, there is no possibility for even ordering pay and recovery.

7.In view of the above, the civil miscellaneous appeal is dismissed. The judgment and decree dated 03.03.2017 passed by the (Special District Court) The Motor Accidents Claims Tribunal at Salem District, in M.C.O.P.No.1241 of 2014, is confirmed. Liberty is granted to the appellant Insurance Company to approach the Civil Court as against the ninth respondent for recovering the compensation amount in the manner known to law. No costs. Consequently, the connected miscellaneous petition is closed.

07.11.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

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To

1.(Special District Court) The Motor Accidents Claims Tribunal
at Salem District.

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M.DHANDAPANI,J.
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And
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