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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.03.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1015 of 2021

The Joint Director of Agriculture,
Virudhunagar,
Virudhunagar District.

... Appellant

(The Appellant's Designation was wrongly given by the respondents in MCOP. No.29 of 2019 as the Commissioner, Joint Director of Agriculture, Virudhunagar, Virudhunagar District).

Vs.

1. R.Ranjithamary

2. R.Jesuraja

3. P.Selvarani

4. J.Jaya

5. R.Baby

6. R.Selvaraj

... Respondents

[Cause title Accepted Vide Court Order dated 21.10.2021]

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, against the Judgment and Decree passed in M.C.O.P.No.29 of 2019, dated 09.01.2021, by the Motor Accident Claims Tribunal, (Additional District Judge), Virudhunagar.

For Appellant : M/s.S.Jeya Priya,
Government Advocate

For R-6 : Mr.R.Ponkarthikeyan



JUDGMENT

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This Civil Miscellaneous Appeal is filed against the Judgment and Decree, dated 09.01.2021 passed in M.C.O.P.No.29 of 2019, on the file of the Motor Accident Claims Tribunal/Additional District Court, Virudhunagar.

2. The Appellant is the Joint Director of Agriculture. The contention of the Appellant is that at the time of accident, the deceased was not wearing helmet and he was not having a valid driving license. Further, while the vehicle was running in the National Highway, the deceased had suddenly crossed the car and hence the accident. Therefore, the appellant prayed to fix contributory negligence on the deceased as well. The Learned counsel appearing for the claimants vehemently opposed for reducing the compensation and for fixing contributory negligence.

3. It is an admitted fact that the deceased died due to the head injuries, which would indicate that the deceased was not wearing helmet. Further the contention of the appellant is that at the time of accident, the deceased was not having any valid driving license and the deceased is the tortfeasor. This Court is of the considered opinion instead of fixing ratio on the contributory negligence this Court is inclined to reduce a sum of Rs.90,400/-



from the total compensation of Rs.6,90,400/- granted by the Tribunal.

However, the claimants are entitled to get 7.5% interest.

4. Accordingly, this Civil Miscellaneous Appeal is partly allowed.

The Appellant is directed to deposit a sum of Rs.6,00,000/- [Rs.6,90,400 – Rs.90,400/-], as compensation with interest at 7.5% p.a., along with costs, less the amount if already deposited, within a period of 12 weeks from the date of receipt of a copy of the Order. On such deposit being made, the claimants are entitled to withdraw the same, as per Law. No Costs. Consequently, connected miscellaneous petition is closed.

26.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
KSA

To

1. The Motor Accident Claims Tribunal/
Additional District Court, Virudhunagar.
2. The Joint Director of Agriculture,
Virudhunagar, Virudhunagar District.
3. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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Judgment made in
C.M.A(MD)No.1015 of 2021

26.03.2024