

(2017) 08 MAD CK 0037

In the Madras High Court

Case No : 1812 of 2013 and C M P(MD) No 1 of 2013

The New India Assurance Co.Ltd.

APPELLANT

Vs

Tmt.Muthulakshmi, & Ors.

RESPONDENT

Date of Decision : 29-08-2017

Acts Referred:

Citation : (2017) 08 MAD CK 0037

Hon'ble Judges : J.Nisha Banu

Bench : SINGLE BENCH

Advocate : J.Nisha Banu

Judgement

1. This Civil Miscellaneous Appeal has been filed by the appellant against the judgment and decree, dated 05.07.2006, passed in MACOP No.49

of 2005 on the file of the Honourable Motor Accidents Claims Tribunal (Additional District & Sessions Court) (Essential Commodities Special Court) Thanjavur.

2. It is a case of fatal accident took place on 16.05.2004 at about 01.00 p.m. While the deceased was travelling as a pillion rider in a TVS Cham

bearing Registration No.TN-49-Z-9340 in Nachiyar Kovil - Kumbakonam road near Karuvattu Mandi, Thirunaraiyur, a Mini Bus bearing

Registration No.T.N.49 V 2882, which was insured with the appellant-Insurance Company, came in a rash and negligent manner and dashed

against the motorcycle. Due to the said impact, the deceased sustained several grievous injuries and died on the spot. At the time of accident, the

deceased was aged about 40 years and he was earning a sum of Rs.15,000/- per month by playing thavil in all the festivals. Hence, the legal heirs

of the deceased /claimants filed an application in M.A.C.O.P.No.49 of 2005 on the

file of the Motor Accident Claims Tribunal, (Additional District & Sessions Court) (Essential Commodities Special Court), Thanjavur seeking a sum of Rs.10,00,000/- as compensation.

3. Before the Tribunal, on the side of the claimants, two witnesses viz., P.Ws.1 and 2 were examined and eight documents viz., Ex.P.1 to Ex.P.8

were marked and on the side of respondents, one witness viz., R.W.1 was examined and one document viz., Ex.R.1 was marked.

4. The Tribunal, after considering the pleadings, oral and documentary evidences and arguments of the counsel for the appellant and claimants and

also appreciating the evidence on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the offending

vehicle and directed the appellant/Insurance Company to pay a sum of Rs.3,32,200/-, as compensation.

5. Against which, the appellant/Insurance Company has filed this present appeal. Though the present appeal has been filed on various grounds, at

the time of arguments, the learned counsel for the appellant restricts his argument only on the ground of negligence.

6. The learned Counsel for the respondents/claimants disputed the said contention and he would draw the attention of this Court to the findings of

the Tribunal, wherein in Paragraph No.8, it has been discussed as follows:

VERNACULAR MATTER OMITTED

7. Based on the above finding, the learned counsel for the respondents / Claimants submitted that the finding of the Tribunal that due to the rash and

negligent driving of the offending, which was insured with the appellant/ Insurance Company deserves no interference and hence, this appeal has to

be dismissed.

8. Heard the learned counsel appearing on both sides and perused the materials available on record.

9. A perusal of the award passed by the Tribunal clearly shows that the Tribunal has discussed in detail and found that due to the rash and

negligent driving of the offending vehicle, which was insured with the appellant/ Insurance Company, the accident had occurred and hence, directed

the Insurance Company to pay the compensation to the claimants and therefore, there is no infirmity in the award passed by the Tribunal and the

same does not require interference at the hands of this Court.

10. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 05.07.2006, passed in M.A.C.O.P.No.49 of 2005, on the file of the Motor Accidents Claims Tribunal (Additional District & Sessions Court) (Essential Commodities Special Court) Thanjavur is hereby confirmed. The appellant/Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the claimants are permitted to withdraw their share as apportioned by the Tribunal, with accrued interests and costs, without filing any formal petition before the Tribunal. No Costs. Consequently, the connected Miscellaneous Petition is closed.