

A. Kodeeswaran Vs. P. Palanisamy and Others

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Court : Chennai Madurai

Decided On : Nov-21-2016

Judge : S.M. Subramaniam

Appeal No. : CMA (MD) No. 1334 of 2007

Appellant : A. Kodeeswaran

Respondent : P. Palanisamy and Others

Judgement :

(Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, against the order and decree dated 10.07.2003 passed in MCOP.No.27 of 2003 on the file of the Motor Accident Claims Tribunal (Additional District Court, Fast Track Court), Virudhunagar.)

JUDGMENT

S.M. Subramaniam, J.

1. It is the case of unfortunate fatal accident took place on 13.09.1999 about 10.00 a.m at Virudhunagar-Alagapuri main road near Sengundrapuram. The injured victim filed an application in MCOP.No.27 of 2003 before the Motor Accident Claims Tribunal, Sub-Court, Virudhunagar, and the Tribunal by considering the facts and circumstances of the case, awarded Rs.1,50,000/- as total compensation

with interest at 9% per annum, mainly fixing the liability on the owner of the vehicle in entirety. The owner of the vehicle preferred the present appeal, challenging the Award passed by the Tribunal, on the ground that he cannot be held fully responsible to pay the compensation in view of the fact that the vehicle was insured.

2. The learned counsel for the 9th respondent/National Insurance Company Ltd., advanced his arguments, by stating that the insurance policy was taken by the owner of the vehicle only with effect from 14.10.1999 to 13.10.2000 and the accident took place on 13.09.1999 and on that day, there was no insurance policy with the 9th respondent company and hence, the company is not liable to pay any compensation to the victim.

3. The insurance policy was also marked as Ex.R1 before the Tribunal and the Tribunal considering the fact that there was no insurance policy at all, fixed the entire liability only on the owner of the vehicle. Hence, there is no error in the finding of the Tribunal warranting interference. Accordingly, the award dated 10.07.2003 passed in MCOP.No.27 of 2003 on the file of the Motor Accident Claims Tribunal (Additional District Court, Fast Track Court), Virudhunagar, is confirmed.

5. The appellant is directed to deposit the entire award amount with proportionate accrued interest and costs, to the credit of the claim petition, within a period of four weeks from the date of receipt of a copy of this judgment, if not deposited already. On such deposit, the respondents 1 to 7/claimants, are permitted to withdraw their shares as apportioned by the Tribunal, less the amount already withdrawn, if any, through RTGS, by filing necessary applications before the Tribunal.

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