

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2015

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

CMA No.1584 of 2015
and M.P.No.1 of 2015

M/s.United India Insurance Co. Ltd.,
46, J.N. Street
Puducherry

...Appellant / 4th Respondent

vs.

1.Madhan	...	1 st Respondent / Petitioner
2.Gnanasekaran	...	2 nd Respondent / 1 st Respondent
(set exparte before MACT)		
3.The Divisional Manager		
M/s.Oriental Insurance Co.Ltd.,		
J.N. Street, Puducherry.	...	3 rd Respondent / 2 nd
Respondent		
4.V.Krishnamoorthy	...	4 th Respondent / 3 rd Respondent
(set exparte before MACT)		

Prayer :- Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the award dated 27.06.2013 made in MCOP No.373/2009 on the file of MACT (PSJ) at Puducherry with Costs.

For Appellant : M/s.T.Ravichandran

JUDGMENT

The appeal has been preferred by the insurance company questioning the 50% liability fixed by the tribunal for the negligence on the part of the driver of the TATA Sumo Car which was insured with the appellant/insurance company.

2. The accident on 17.12.2007 according to the claimant, occurred because of the rash and negligent driving of the driver of the TATA Sumo Car in which the claimant was travelling. Due to the accident, drivers of both the vehicles, i.e. TATA Sumo Car and Mahendira Van, died on the spot. The claimant sustained injuries. Taking into consideration, the head on collusion between the two vehicles, the tribunal fixed 50 - 50 liability. Challenging the same, the appellant / insurance company is before this court by way of this appeal.

3. Though Mr.T.Ravichandran, learned counsel appearing for the appellant/insurance company would submit that 50% liability should not have been fastened on the driver of the TATA Sumo Car insured with the appellant, a perusal of the records would show that the FIR was registered against the driver of the TATA Sumo Car. The claimant adduced evidence to show that both the vehicles were driven rash and negligently. Therefore, the tribunal, rightly fixed the negligence equally on both the vehicles. Moreover, the tribunal also took into consideration the absence of any contra evidence on the side of the appellant to prove their claim. Therefore, this court cannot take a different view then the one reached by the tribunal. Hence, the appeal fails and the same is dismissed.

4. In so far as the quantum of compensation awarded by the tribunal is concerned, the tribunal has awarded a sum of Rs.1,64,000/- alongwith interest @ 7.5% per annum from the date of petition till the date of deposit which appears to be very reasonable and hence the same is confirmed.

5. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant/insurance company is directed to deposit their share of the award amount, alongwith proportionate interest and costs, if not already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the 1st respondent/claimant is permitted to withdraw the same, after adjusting the amount already withdrawn, if any.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

rgr

To

1.The Principal Subordinate Judge,
Motor Accident Claims Tribunal,
Puducherry.

2.The Section Officer, VR Section,
High Court, Madras

+1 cc to Mr.T.Ravichandran,Counsel for the Petitioner
sr.38762/15

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