

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 07.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

C.M.A.No.3572 of 2004

M/s.United India Insurance Company Limited,
No.38, Anna Salai, Chennai - 600 002. ... Appellant/R2

Vs.

1. V.Thangam
2. V.Ajith
3. J.H.Frederic Ajoo ... Respondents/Petitioners
and R1

Prayer : Civil Miscellaneous Appeal preferred under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 29.11.2002 on the file of the Motor Accident Claims Tribunal (II Judge, Small Causes Court) Chennai made in O.P.No.1978/1999.

For Appellant : Mr.R.Ravichandran

For R1 : Mr.A.Salomi

For B.S.Padmanabhan

For R2 : No Appearance

For R3 : Exparte

J U D G M E N T

In a fatal road accident involving a child, aged 4 years, the parents of the child have moved the Motor Accident Claims Tribunal seeking compensation of Rs.2,00,000/-, as against which, the Tribunal has passed an award for Rs.1,50,000/-.

2. The learned counsel for the appellant submitted that the Insurance Company challenged only the quantum of compensation awarded.

3. On going through the papers, I do not find any reason to interfere with the quantum determined by the Tribunal and in fact, I find that the said award is in order in every aspects. I find no merit in the appeal and the the same is dismissed without costs. The Insurance Company and the owner of the vehicle viz., the third respondent are directed to pay the amount awarded by the Tribunal, less amount, if any, already

deposited, with the interest at 9% per annum within six weeks from the date of receipt of a copy of this order. Where upon the claimants would be entitled to receive the same forthwith.

4. The learned counsel for the respondent now intervened to submit that the whereabouts of the second claimant/second respondent, the father of the deceased boy (the husband of the first claimant), is not known and a FIR has been preferred on 03-02-2011 for man missing before Aryancode Police Station in Tiruvananthapuram District, Kerala. She therefore prayed the entire compensation amount be paid to the mother of the deceased child. This, I consider, cannot be gone into by this Court. The first claimant/first respondent may however provide necessary materials before the Motor Accident Claims Tribunal to facilitate the Tribunal to enquire into the matter and this issue is left open for the consideration of the Tribunal. CMP No.19311 of 2004 is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

kmi

To:

1.United India Insurance Company Limited,
No.38, Anna Salai,
Chennai - 600 002.

2.The Section officer
VR Section High Court Madras

3.The II Judge, Court of Small Causes
Chennai

+1 cc to Mr.B.S.Padmanabhan Advocate sr 71951
+1 cc to Mr.R.Ravichandran Advocate sr 72368

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vsn(co)
aa27/01/2017