



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2016

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

CMA(MD)No.357 of 2015

and

M.P(MD)No.1 of 2015

M/s.United India Insurance Company Ltd.,
Rep by its Divisional Manager,
Office No.1 Post Office Road,
Palayamkottai,
Tirunelveli District.

... Appellant/2nd Respondent

vs.

1)Valliyammal
2)Minor Tamilarasan
3)Minor Mahalakshmi
4)Velu

... Respondents No.1 to 4/Claimants

(Minor respondents 2 & 3 are represented by their mother
and next friend the 1st respondent)

5)Subbaiah

... 5th Respondent / 1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act,
against the judgment and decree dated 29.12.2011 passed in
MCOP.No.793 of 2011 on the file of the Motor Accident Claims
Tribunal/Fast Track Court No.II, Tirunelveli.

For Appellant : Mr.A.S.Mathialagan
For R5 : Mr.M.Alagappan
Respondent 1 to 4 : No Appearance

JUDGMENT

It is the case of unfortunate fatal accident took place on
16.05.2011 around 11.30 p.m on Nethaji road, Melapalayam. The
legal heirs of the deceased filed an application before the Motor
Accident Claims Tribunal/Fast Track Court No.II, Tirunelveli, and
the Tribunal considering the facts and circumstances of the case,
awarded Rs.5,55,000/- as total compensation with interest at 8%
per annum. The present appeal is filed by the appellant/insurance
company, challenging the award passed by the Tribunal, on the
ground that the quantum of compensation awarded by the Tribunal is



excessive and further, it is a case, where the deceased himself committed the act of negligence and therefore, the appellant ought to have been exonerated from its liability.

2. This Court is unable to accept the contentions of the appellant, in view of the fact that the deceased was aged 35 years at the time of death and he was working as Auto driver. Wife, two minor children and father are the dependants. The deceased was the only breadwinner of the family considering the facts and circumstances of the case, this Court is not inclined to reconsider the award passed by the Tribunal merely on technical grounds and accordingly, the impugned award is confirmed.

3. 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 and thereafter, the respondents 1 and 4/claimants, are permitted to withdraw their shares with proportionate interest, through RTGS, by filing necessary application before the Tribunal. The shares of the respondents 2 and 3/minor claimants shall be deposited in a Nationalised Bank in Fixed Deposit, till they attain majority and on attaining majority, it is for them to approach the Tribunal for disbursement of their shares, by making necessary applications.

In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, M.P(MD)No.1 of 2015 is closed.

Sd/-

Assistant Registrar(Writ)

/True Copy/

Sub Assistant Registrar

nbi

To

- 1 The Fast Track Court No.II,
Motor Accident Claims Tribunal, Tirunelveli.
- 2 The Section Officer,
V.R.Section, Madurai Bench of Madras High Court,
Madurai

+1cc to Mr.A.S.Mathialagon, Advocate Sr.No. 74638

+1cc to Mr.M.Alagappan Advocate Sr.No. 74923

JAM/29.12.16/EM/MPA/2p-5c