



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.11.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.401 of 2016
and
C.M.P. (MD) No.5488 of 2016

The United India Insurance Co.Ltd.,
Divisional Office, 2 Salai Road,
Trichirappalli-18.

... Appellant/2nd Petitioner

Vs.

1.S.Latha
2.Minor S.Sarath Kumar
3.M.V.Muthukaruppan
4.Nagalakshmi

... Respondents/Petitioners
... Respondent/1st Respondent

(Minor 2nd respondent is represented by his mother or
guardian the 1st respondent Latha)

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988,
against the decree dated 10.07.2014 passed in M.C.O.P.No.469 of 2013
on the file of the Motor Accident Claims Tribunal, (Special District
Court), Tiruchirappalli.

For Appellant	: Mr.G.Prabhu Rajadurai
For R1 & R2	: Mr.C.K.M.Appaji
For R3	: Deceased
For R4	: Mr.J.Lawrance

JUDGMENT

M.C.O.P.No.469 of 2013 was filed by the legal representatives of the deceased. The deceased was travelling in TATA ACE vehicle which is a goods vehicle and it dashed against a tamarind tree and the resulting, accident occurred. The policy covering the said vehicle includes only the driver, owner and one employee. But in this case as many as five persons have travelled in the goods vehicle. Therefore this Court has already held that the case of the injured in M.C.O.P.No.468 of 2013 alone is covered by the terms of the policy.

2.The appellant insurance company cannot be made liable to satisfy the award in M.C.O.P.No.469 of 2013. It is the owner who



has to be made liable. The entire liability has to be fixed only on the owner. Therefore, C.M.A.(MD)No.401/2016 stands allowed and the award in M.C.O.P.No.469 of 2013 is modified accordingly. Consequently, connected miscellaneous petition is closed. No costs.

3.The fourth respondent, who is the owner of the vehicle, is directed to pay the entire compensation award with 7.5% interest per annum and costs, from the date of petition till the date of realization, within a period of eight weeks from the date of copy of this order. The learned counsel for the appellant insurance company submitted that the appellant deposited 50% of the award amount with interest. The claimants have been allowed to withdraw 25% of the award amount. On such deposit, the claimant is permitted to withdraw the entire amount, less the amount already withdrawn by her, if any, by filing proper application before the Tribunal.

4.The appellant insurance company is permitted to withdraw the remaining amount lying the credit of the M.C.O.P.

5..This court direct that the appellant insurance company shall not recover the 25% amount that was already withdrawn by the claimant.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal,
(Special District Court),
Tiruchirappalli.

2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.G.PRABHU RAJADURAI, ADVOCATE IN SR No. 86351

+ 1 CC TO Mr.J.LAWRANCE, ADVOCATE IN SR No. 86373

DSS

TE/MR-KKR/SAR-1 : 12/12/2017 : 2P/5C

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09.11.2017