



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.10.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.567 of 2015

and

M.P (MD) No.1 of 2015

The Divisional Manager,
United India Insurance Company Ltd,
West Veli Street,
Madurai - 625 001.

... Appellant/2nd Respondent**Vs.**

1.M.Vijaya
2.Kanmani
3.M.Murugesan
4.M.Sathiskumar
5.N.Shahul Hameed

... 1 to 4 Respondents/Claimants

... 5th Respondent/1st Respondent

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree made in MCOP.No.414 of 2008 dated 03.04.2014 on the file of the Motor Accident Claims Tribunal (District Court), Sivagangai.

For Appellant : Mr.G.Prabhu Rajadurai
For Respondents 1 to 4 : Mr.K.Kumaravel
For Respondent - 5 : No Appearance

JUDGMENT

The United India Insurance Company is on appeal challenging the award dated 03.04.2014 made in MCOP.No.414 of 2008 on the file of the Motor Accident Claims Tribunal (District Court), Sivagangai.

2.The deceased was the husband of the first claimant. The only ground of challenge is that the deceased was travelling in the ill-fated car as gratuitous occupant and therefore he did not enjoy the coverage under act policy.

3.The learned counsel appearing for the appellant placed reliance on the decision reported in **United India Insurance Co. Ltd, V. Tilak Singh and others (2006) ACJ 1441** rendered by the Hon'ble Supreme Court. He also drew my attention through the decision of the Hon'ble Division Bench reported in **2015 (1) TN MAC 19 (DB) (New India Assurance Co. Ltd, Vs. S.Krishnasamy and others).**



4. But, the learned counsel appearing for the claimants pointed out that the Hon'ble Supreme Court in the decision reported in **2017 (1) TN MAC 289(SC) (Manuara Khatun and ors. Vs. Rajesh Kr.Singh and ors)**, directed the insurer of the offending vehicle to first satisfy the award sum and recover the same from the vehicle owner in the same proceedings.

5. In view of the latest decision rendered by the Hon'ble Supreme Court, I am inclined to sustain the award passed by the Tribunal. The appellant is directed to pay the award amount to the claimants and thereafter recover it from the owner i.e. (Insurer).

6. This Civil Miscellaneous Appeal is dismissed accordingly. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1. The District Judge,
Motor Accident Claims Tribunal,
Sivagangai.
2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.G.PRABHU RAJADURAI, ADVOCATE IN SR No. 83173

+ 1 CC TO Mr.K.KUMARAVEL, ADVOCATE IN SR No. 83237

SKM

TE/JC/SAR-I : 01/11/2017 : 2P/5C

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