



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A.(MD)No. 922 of 2016

and

C.M.P.(MD)No.8370 of 2016

United India Insurance Company Limited,
Kumbakonam,
Represented by its,
Branch Manager.

... Appellant / Respondent No.1

Vs.

1.Rethinapackiam	...1 st Respondent/1 st Petitioner
2.Dhanalakshmi	... 2 nd Respondent/2 nd Petitioner
3.Chittrarasu	... 3 rd Respondent/3 rd Petitioner
4.Pitchaiammal	...4 th Respondent/2 nd Respondent

Common Prayer: Appeals filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 01.04.2016 made in M.C.O.P.No.410 of 2014, on the file of Motor Accident Claims Tribunal, Principal Subordinate Court, Kumbakonam.

For Appellant	: Mr.N.Murugesan
For Respondents	: No appearance

JUDGMENT

Heard the learned counsel on either side.

2.One Annadurai was the owner of the two wheeler bearing registration No.TN.68.J.8489. When he was riding it on 03.06.2014, it is alleged that due to crossing of cattle, he lost his balance and fell down, suffered head injuries and died after two days on 05.06.2014. He was also not having any driving licence. Since he was the vehicle owner, the question of maintaining the claim against the Insurance company will not arise. The Insurer can be made liable only if the owner is liable. This is not a third party claim. Therefore the claim petition is not maintainable. The Tribunal did not approach the issue from this perspective. Therefore the impugned award, dated 01.04.2016 in M.C.O.P.No.410 of 2014 is liable to be set aside.



3. However, the learned counsel appearing for the appellant had submitted that the deceased had personal accident coverage policy and as per the terms of the said policy, a sum of Rs.1,00,000/- should be paid to the claimants. He informed that as per the direction issued by this Court on 02.09.2016, in C.M.P. (MD) No.8370 of 2016 in C.M.A. (MD) No.922 of 2016, the said sum of Rs.1,00,000/- was deposited and the claimants are permitted to withdraw their respective shares with proportionate interest and costs, without filing any formal petition before the Tribunal.

4. The submission of the learned counsel appearing for the appellant is placed on record.

5. The appeal is allowed accordingly and the impugned award dated 01.04.2016 in M.C.O.P.No.410 of 2014 is set aside. No costs.

Sd/-

Assistant Registrar (RTI)

/True copy/

Sub Assistant Registrar

To

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

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

+1cc to Mr.N.MURUGESAN, Advocate, SR. 88336

C.M.A. (MD) No.922 of 2016
20.11.2017

GSP/IA

KK/SV MMS/SAR 1/03.01.2018/2P- 4C/