

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.3077 of 2011
and M.P.No.1 of 2011

United India Insurance Company Limited,
Divisional Office I,
Bob Building, 4th Floor,
State Bank Road,
Coimbatore District 613 001.

...Appellant

...vs...

1.Tmt. Kannammal
2.Thiru.SathishKumar
3.Minor.Karthick
4.Thiru. M.Thangaraj
5.Thiru.S.Marimuthu

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 27.08.2010 in M.C.O.P.No.352 of 2009 on the file of the Motor Accident Claims Tribunal (Principal District Judge), Erode.

For Appellant : Mrs.R.Srividhya

For Respondents : Mr.P.Parthi Kannan
for Mr.S.Kaithamalai Kumaran
for R1 to R3

JUDGMENT

The appellant is the United India Insurance Company Limited, Coimbatore. The respondents 1 to 3 filed a claim petition under Section 166 of the Motor Vehicles Act, 1988, in M.C.O.P.No. 352 of 2009 before the learned Principal District Judge, Erode, seeking a compensation of Rs.7,00,000/- for the death of one Nataraj, husband of the first claimant and father of the claimants 2 and 3.

2. The brief case of the respondents 1 to 3/claimants is as follows:

On 20.03.2009, the deceased Nataraj was travelling in a Minidor auto bearing Registration No. TN 49 Q 1283 after unloading the fire-wood at SIPCOT Perundurai. When the said Minidor auto was nearing Ingur New Bridge, the driver of the Minidor auto drove the vehicle rashly and negligently, as a result of which, the Minidor auto toppled. The deceased sustained grievous injuries all over his body. He was immediately rushed to Government Hospital, Erode. However, he succumbed to injuries on the same day.

3. According to the respondents 1 to 3/claimants, the deceased was aged 42 years on the date of the accident, and was doing business in buying and selling firewood earning a sum of Rs.6,000/- per month. It is also contended by the respondents 1 to 3/claimants that the rash and negligent driving of the driver of the Minidor auto bearing Registration No. TN 49 Q 1283, was the cause of the accident and that since the said Minidor auto was insured with the United India Insurance Company Limited, Coimbatore, both of them are jointly and severally liable to pay compensation to them. The owner of the Minidor auto as well as the present appellant filed their respective counters before the tribunal and the learned Principal District Judge, Erode District after analysing the evidence on record, awarded a compensation of Rs.5,38,000/- (Rupees five lakhs and thirty eight thousand only) to the claimants together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit.

4. Aggrieved over the orders dated 27.08.2010 passed by the learned Principal District Judge, Erode District, the United India Insurance Company Limited, Coimbatore has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Mrs.R.Srividhya, learned counsel appearing for the appellant contended that the deceased was a gratuitous passenger in the said Minidor auto and therefore, the Insurance Policy (Ex.R.1) would not cover the death of the deceased Nataraj. In the instant case, the Insurance Policy is a package policy.

6. The specific contention of the respondents 1 to 3/claimants is that the deceased was doing business in buying and selling fire-wood and that on the date of accident, he had delivered fire-wood at SIPCOT Perundurai. The deceased was also found sitting within the seating capacity available in the said Minidor auto. In the facts and circumstances of the present case, I do not find any merits in the arguments advanced by the learned counsel appearing for the appellant that the deceased was a gratuitous passenger. As far as the quantum of compensation is concerned, the trial court has awarded a

compensation of Rs.5,38,000/- (Rupees five lakhs and thirty eight thousand only) to the claimants together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit. The accident took place in the year 2009. Considering the age of the deceased, the award passed by the tribunal cannot be said to be too meagre. It is also pertinent to point out that the claimant did not file any cross objections or appeal against the award passed by the tribunal.

7. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is dismissed.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

vkr/mbi

To

- 1.The Principal District Judge,
Erode District.
 2. The Section Officer, VR Section, High Court of Madras.
- +lcc to Mrs.R.Sreevidhya, Advocate SR.No.85281
+lcc to Mr.S.Kaithamali Kumaran, Advocate SR.No.85282

SPD (CO)
GMY (31/01/2019)

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