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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3054 of 2012

M/s United India Insurance
company Limited,
Cuddalore.

...Appellant/2nd Respondent

Vs

1.Viswanathan
2.Kowselya
3.Minor Arul Jothi
4.Minor Anandha Jothi
5.Minor Sivajothi
(Minors 3 to 5 rep.by its Guardian & father/1st respondent)

... Respondents 1 to 5/Claimants 1 to 5

6.Krishnamurthy

...6th Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Villupuram in M.C.O.P.No.93 of 2006 dated 18.06.2010.

For Appellant : Mrs.R.Sreevidhya

For Respondents : Mr.D.Senthilkumar for R1 to R5

R6 - Exparte

JUDGMENT

The instant appeal has been filed by the insurance company challenging the award dated 18.06.2010 passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate at Villupuram District in M.C.O.P No. 93 of 2006.

2.The brief facts leading to the filing of the instant appeal are as follows:

(i) One Veeramani died on 25.07.2004, as a result of an accident caused by the lorry bearing registration No.TAL 5734,



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9. According to him, only based on the oral and documentary evidence available on record, the tribunal has passed the impugned award. He also contented that the Appellant did not examine any witness nor did they produce any documentary evidence before the Tribunal.

10. This court, after considering the materials available of the record and after examining the impugned award and after hearing the submissions of the respective counsels, observes the following:

(a) The respondent Nos. 1 to 5 before the Tribunal have filed six documents namely, First Information Report, Registration Certificate, Insurance policy, vehicle permit, Driving licence, Post mortem report. They have also examined two witnesses namely, the 1st respondent in this appeal as well as an eye witness.

(b) On the side of the appellant, no documentary evidence was produced and no witness was examined. The Tribunal has considered the oral and documentary evidence available on record and only thereafter, has come to the conclusion that the appellant is liable to compensate the claim of the respondent Nos.1 to 5. The Tribunal has given a clear finding based on the oral and documentary evidence that the deceased was travelling as a coolie accompanying the goods and was not a gratuitous passenger.

(c) As seen from the award, no contra evidence was also produced by the appellant to disprove the contention of the claimants that the deceased was travelling as a coolie accompanying the goods in the insured vehicle.

11. In the light of the above observations, this Court is of the considered view that there is no merit in the instant appeal and the appeal is dismissed. No costs. Consequently, connected M.P.No.1 of 2012 is closed.

12. It is represented that the entire amount has already been deposited by the appellant before the tribunal. The respondents 1 to 5 are permitted to withdraw their respective shares as per the ratio apportioned by the tribunal on filing appropriate application.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar



msr/sbn

To

1. The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Villupuram

2. The Record Clerk,
Vernacular Section,
High Court, Madras.

+2cc Mr.D.Senthilkumar, Advocate SR.NO.70374

C.M.A.No. 3054 of 2012

kji(co)
nr 12/04/2018