IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.180 of 2004
and C.M.P.No.475 of 2004

M/s.United India Insurance
Company Limited,
Villupuram. ... Appellant/2nd Respondent

Vs.

1.Muthammal
2.Kaliammal
3.Ravi
4.Thanikachalam
5.Minor Kesar
Minor rep.by mother and
guardian -
1st respondent Muthammal ..Respondents 1 to 5/
Petitioners 1 to 5
6.Mohamed Sulaiman
7.Managing Director,
Thanthai Periyar Transport Corporation Ltd.,
Villupuram.
8.Syed Kalisha
9.Manager, New India Assurance Co.Ltd.,
Kaddapah, Andhra Pradesh. ..Respondents 6 to 9/
Respondents 1,3,4 & 5

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 23.03.1998 made in MCOP No.458 of 1995 on the file of the Motor Accidents Claims Tribunal (Addl. District Judge & Chief Judicial Magistrate) at Villupuram.

For Appellant : Mr.S.Arunkumar
For Respondents : Mr.T.D.Vasu for Mr.N.Ishliaq Ahmed
for R1 to R5
Mr.P.Jagadeesan for R7

JUDGMENT

This appeal is preferred by the Insurance Company against the award of a sum of Rs.1,64,000/- towards compensation to the respondents 1 to 5 due to the death of the husband of the first respondent for the injuries sustained by him in a road accident.

2.The case in brief, is as follows:

On 27.08.1991, the husband of the first respondent and others were travelling in a private bus bearing Registration No.DTO-1224, belonging to the sixth respondent herein and insured with the appellant Insurance Company. At about 7.30 p.m., when the said bus was proceeding towards Vikravandi Bridge, the driver tried to overtake another bus bearing Regn.No.TCP-6085, belonging to the seventh respondent herein. At that time, one another bus bearing Regn.No.ATD-865 belonging to the eighth respondent herein, came in a rash and negligent manner and dashed against the bus bearing Regn.No.TCP-6085 and due to the said impact, it dashed against the bus in which the husband of the first respondent was travelling. Due to the said impact, the husband of the first respondent died. The legal heirs of the deceased filed a claim petition before the Tribunal. On consideration of the evidence available on record, the Tribunal awarded a total compensation of Rs.1,64,000/- with interest at the rate of 12% per annum from the date of petition, to the claimants. The appellant Insurance Company and the sixth respondent were directed to pay a sum of Rs.54,666/- jointly and severally, in respect of their share.

3.Challenging the same, the appellant Insurance Company has filed the present appeal.

4.The learned counsel for the appellant has submitted that the owner of the vehicle has paid the premium by way of cheque and the same was dishonoured and hence the appellant was obliged to cancel the policy and hence the Insurance Company is not liable to pay compensation. He also submitted that the Tribunal ought to have made the owner of the vehicle to pay the compensation, but instead, the Tribunal has erred in not even granting the right of recovery to the appellant herein.

5.The learned counsel for the respondents 1 to 5 / claimants has submitted that the Tribunal has considered the oral and documentary evidence in proper perspective and has granted the compensation and hence the same does not require any interference.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.On considering the oral and documentary evidences adduced, the Tribunal has fixed a sum of Rs.1,44,000/- towards loss of income, Rs.20,000/- towards loss of consortium and Rs.20,000/- towards loss of estate and awarded a total compensation of Rs.1,64,000/- with interest at 12% p.a. from the date of petition, which in my considered opinion, does not call for any interference. Even with regard to liability, the Tribunal has analysed the matter in proper perspective and has given a finding that no notice has been sent by the appellant Insurance Company to the sixth respondent in this connection and the same has also been agreed by the Insurance Company. Hence the appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The appellant Insurance Company is directed to deposit the award amount as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment.

8.The claim petition was filed in the year 1995. Hence, the fifth respondent who was a minor at that time, would have attained majority. Hence, on such deposit, all the claimants are entitled to withdraw their respective share, on filing proper application before the Tribunal.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal
(Addl. District Judge & Chief Judicial Magistrate)
at Villupuram.

Copy to : The Section Officer,
VR Section, Madras High Court.

+1 cc to Mr.S.Arun Kumar,Advocate Sr.No. 44645

AKM/17.09.19/3P-4C /

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