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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.2442 of 2006

and

M.P.No.1 of 2006

The Manager,
The Oriental Insurance Co., Ltd.,
Regional Office, UIL buildings,
No.8, Esplanade, Chennai - 600 108. .. Appellant/2nd Respondent

Vs.

1. G.R.Mahalakshmi

2. G.Babu

3. M/s.Sky Line Travels (R)
Complex 11/B (AB) Dilshed complex,
Fort C-Street, A.V.Road, Kalasipalayam,
Bangalore - 560 002.

4. Sri Guru Shevak Singh
Gamege No.67,
Gulasi Bagh, Delhi - 110 007.

5. The Manager,
National Insurance Co. Ltd.,
No.66, Greams Road, 1st Floor,
Chennai - 600 006.

.. Respondents/Petitioners 1 & 2/
Respondents 1,3 & 4

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 28.02.2005 made in M.C.O.P.No.384 of 1997 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Kancheepuram.

For Appellant	: Mr.M.Rajasekhar
For R1 & R2	: Mr.C.Prabakaran
For R5	: Mr.S.Arunkumar



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J U D G M E N T

This appeal is preferred by the appellant Insurance Company against the judgment and decree dated 28.02.2005 passed by the Motor Accident Claims Tribunal, Subordinate Court, Kancheepuram, (for brevity, "the Tribunal"), in M.C.O.P.No. 384 of 1997.

2.The facts of the case are that on 24.04.1997, at about 10.00am one Mahesh was traveling in the third respondent bus bearing Registration No.KA-01-A-1799 insured with the appellant insurance company, from Chennai towards Bangalore. While the bus was nearing GWT National Highways road, one lorry bearing Registration No.DL-1-GA-1946 was stationed on the road for some repairs. The bus driver drove the bus in a rash and negligent manner and dashed against the stationed lorry. Due to the same, the said Mahesh sustained injuries and died on the spot. Hence, the respondents 1 & 2, who are the legal heirs of the deceased, filed a claim petition, seeking a sum of Rs.14,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.1,08,480/- with interest at the rate of 9% per annum from the date of petition. Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

3.The learned counsel for the appellant Insurance Company has not disputed the quantum of compensation awarded by the Tribunal. However, he contended that in view of the fact that the deceased was one among the partners of M/s.Sky Line Travels, Bangalore and he himself travelled in the bus, the appellant insurance company is not liable to pay compensation, as the insurance policy does not cover the insured. Hence, he prayed to modify the award of the Tribunal to that extent.

4.The learned counsel for the respondents/claimants on the other hand, has submitted that the Tribunal, after evaluation of the oral and documentary evidence available on record, has rendered its findings on negligence and liability and awarded the just compensation and hence, the same does not call for any interference at the hands of this Court.

5.Heard both sides and perused the materials available on record carefully and meticulously.

6.Since the appellant Insurance Company has not disputed the manner in which the accident took place, the finding of the Tribunal that the accident had occurred only due to the rash and negligent driving of the driver of the bus, need not be interfered with by this Court.



7.As regards the finding on liability, the learned counsel for the appellant insurance company vehemently contended that the deceased was one of the partners of the Travels and he himself travelled in the bus on the date of accident and hence, the appellant insurance company is not liable to compensate the insured, as the insurance policy covers only third party risk and not the risk of the life insured. In support of the same, they produced Exs.R1 to R5 documents. However, the Tribunal has disbelieved the same and held that no concrete evidence was adduced to prove the fact that the deceased was the insured of the vehicle and ultimately, fastened the liability on the appellant insurance company to pay compensation to the claimants. This Court finds no reason to differ with the view so taken by the Tribunal, as the same is based on the materials and evidence available on record and hence, the same need not be interfered.

8.There is no grievance with regard to the quantum of compensation awarded by the Tribunal and hence, the same is confirmed as such.

9.In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant Insurance Company is directed to deposit the entire amount with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the respective shares of the award amount as apportioned by it, to the savings bank account of the respondents 1 and 2, through RTGS within a period of one week thereafter.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. Motor Accident Claims Tribunal,
Subordinate Court,
Kancheepuram.



Copy to

The Section Officer,
VR Section, High Court,
Madras.

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- +1 Cc to Mr.C.Prabakaran, Advocate sr 56839.
- +1 CC to Mr.S.Arunkumar, Advocate sr 56644
- +1 CC to Mr.M.Rajasekhar, Advocate sr 56616.

C.M.A.No.2442 of 2006
and
M.P.No.1 of 2006

PPA(CO)
SP(23/07/2020)