

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.811 of 2007

The United India Insurance Co. Ltd.,
Ramanathapuram, Tricy road,
Coimbatore.Appellant/2nd Respondent
.Vs.

- 1.Poovathal
- 2.Minor Logabirami
- 3.Minor Jayabarathi
- 4.Minor Minor Manoranjitham
(Minors 2 to 4 represented by
their mother and natural friend,
first respondent)
- 5.Karuppakkal ... Respondents 1 to 5/
Petitioners 1 to 5
- 6.Ramadass
6th Respondent exparte before ... 6th respondent/
Lower Court) 1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 30.08.2006 passed in MCOP.No.960 of 2002 on the file of the Motor Accident Claims Tribunal, Fast Track Court No.4, Coimbatore at Tiruppur.

For Appellant : Mr.N.Vijayaraghavan

For Respondents : No appearance

JUDGMENT

The appellant, United India Insurance Company Limited, Coimbatore is the second respondent in MCOP.No.960 of 2002 on the file of the Motor Accident Claims Tribunal, Fast Track Court No.4, Coimbatore at Tiruppur. The respondents 1 to 5 filed the said claim petition under Section 166 (1) of the Motor Vehicles Act, 1988 praying to award a compensation of Rs.20,00,000/- for the death of one Palanisamy in a road accident that took place on 14.09.2001.

the deceased Palanisamy was travelling in a Hero Honda motorcycle bearing Registration No.TN 40 Z 3089 as a pillion rider and at about 10.00 am, when the motorcycle was nearing Thulukamuthur road, the rider of the motorcycle rode the vehicle rashly and negligently and hit a cow, as a result of which, the deceased fell down from the two wheeler and died on the spot. According to the claimants, the rash and negligent riding of the rider of the two wheeler was the cause of the accident and that since the said two wheeler was insured with the United India Insurance Company Limited, both of them are jointly and severally liable to pay compensation to them.

3. The owner of the motorcycle remained absent before the Tribunal and therefore he was set exparte. The present appellant contested the claim petition. The learned Judge, Fast Track Court No.4 / Motor Accidents Claims Tribunal, Coimbatore at Tiruppur, awarded a compensation of Rs.9,34,600/- to the claimants together with interest at the rate of 7.5% per annum. Aggrieved over the orders passed by the Tribunal, the United India Insurance Company Limited, Coimbatore has filed the present appeal.

4. Mr.N.Vijayaraghavan, learned counsel appearing for the appellants contended that since the policy issued in the instant case is an 'Act Policy', the pillion rider would not be covered and therefore, the Insurance Company is not liable to pay compensation to the claimants. His another contention is that as per the investigation report (Ex.B1) filed by Mr.R.Damoaran, Inspector of Police (Retired), Investigator, the deceased was actually riding the two wheeler without a driving licence and the investigation report was not at all considered by the trinunal.

5. No appearance on behalf of the respondents.

6. A perusal of a copy of the Insurance Policy which is marked as Ex.B2 clearly shows that the policy is a 'comprehensive policy'. Therefore, the Tribunal rightly held that the pillion rider who died in the accident should be compensated by the appellant / United India Insurance Company Limited. A perusal of a copy of the First Information Report (Ex.A1) shows that the deceased travelled only as a pillion rider in the Hero Honda motorcycle bearing Registration No.TN 40 Z 3089. Both the appellant and the claimant did not question the quantum of compensation.

7. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs.

(ii) The order passed by the Tribunal is upheld.

(iii) The present appellant, United India Insurance Company Limited is directed to deposit the entire compensation amount awarded by the Tribunal i.e., Rs.9,34,600/- (less the

amount already deposited) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.960 of 2002 on the file of the Motor Accident Claims Tribunal, Fast Track Court No.4, Coimbatore at Tiruppur within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the claimants are at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law. The apportionment granted by the Tribunal shall be kept intact.

Sd/-

Assistant Registrar (Admin)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Motor Accidents Claims Tribunal,
The Fast Track Court No.4,
Coimbatore at Tiruppur.
- 2.The Section Officer,
VR Section, High Court,
Chennai 104.

+1cc to Mr.M.B.Gopalan, Advocate, S.R.No. 76927

सत्यमेव जयते

CMA.No.811 of 2007

PVS (CO)
GN(25/02/2020)

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