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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN
Civil Miscellaneous Appeal No.560 of 2006
& CMP No.2172 of 2006

The Manager, New India Assurance Co. Ltd.,
Motor Third Party Cell,
45 Moore Street, Chennai - 1 ... Appellant/2nd Respondent

..VS..

1. Minor T.Kishore Kumar
2. Minor. T.Kirthika
3. Minor. T.Sandhya
(R-1 to R-3, minors, rep. by their guardian
and grand father, Johnson) ...1 to 3 Respondents/
Petitioners
4. J.David Johnson ...4th Respondent/
1st Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 22.09.2004 made in M.C.O.P.No.880 of 2003 on the file of the Motor Accident Claims Tribunal, Sub Court, Tiruvallur.

For Appellant : Mr. S.Manohar.
For Respondents: No Appearance.

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the Insurance Company, challenging the negligence as well the quantum of compensation awarded by the Claims Tribunal.

Brief facts:

2. On 01.09.2002 at about 10.15 hrs, the deceased was going at Siruvanoor Granite Company, as a Pillion rider, in the motor cycle bearing Registration No.TSH 4792. At that time, suddenly buffalos crossed the road by fighting themselves. Due to that, the motorcycle driver applied brake and collapsed. At the time of accident, the said motorcycle was driven by the first respondent herein. Due to the said accident, the deceased sustained head injuries and succumbed to the injuries at General Hospital, Chennai. In the said accident, her child and driver of the motorcycle also sustained injuries. The accident was solely due to the rash and negligent driving of the motorcycle bearing No.TSH4792 by its driver. Stating so, the Legal Representatives of the deceased have claimed the compensation of



use of the vehicle on a road by a person. Admittedly, in this case, it is the case of both sides that there is a policy and it provides insurance cover in respect of liability. Hence, the Insurance Company is liable to pay the compensation.

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7. Further, as far as the quantum of compensation awarded by the Claims Tribunal is concerned, this Court is of the opinion that the same is reasonable, weight of evidence and based on settled principles and thus there is no ground to interfere with the judgment passed by the Tribunal below. The compensation awarded by the Tribunal is just, fair and reasonable.

8. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. The appellant / Insurance Company shall deposit the entire compensation amount, along with interests and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. The ratio of apportionment shall be as ordered by the Claims Tribunal. The minor claimants should have attained majority as on now. Therefore, on such petition being taken out to declare the minor claimants, as majors, the claims Tribunal shall pay the compensation to the RTGS Accounts of the claimants and if not, their respective share amounts shall be deposited in any one of the Nationalised Banks and interest accrued thereon shall be withdrawn by the guardian of the minor claimants. Consequently, the connected CMP is closed.

-s/d-
Assistant Registrar

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Sub-Assistant Registrar

srk



To

1. Motor Accident Claims Tribunal, Subordinate
Tiruvallur.

2. The Section Officer,
V.R.Section, Madras High Court, Chennai 104

+1 cc to Mr.S.Manohar Advocate sr51317

C.M.A.No.560 of 2006
& CMP No.2172 of 2006

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