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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.Nos.3360 and 3361 of 2010

C.M.A.No.3360 of 2010 :

United India Insurance Co. Ltd.,
No.1170, Mettur Road, 2nd Floor,
Muthiah Complex, Erode District.

... Appellant/3rd Respondent

vs.

1.Manisekaran ...1st Respondent/Claimant

2.Jotheeswaran

3.Subramani ... Respondents 2 and 3/Respondents 1 & 2
(Respondents 2 and 3 are
set exparte in the Lower Court)

C.M.A.No.3361 of 2010 :

United India Insurance Co. Ltd.,
No.1170, Mettur Road, 2nd Floor,
Muthiah Complex, Erode District.

... Appellant/3rd Respondent

vs.

1.Jayasudha

2.Minor Pooja

3.Subbalakshmi ...Respondents 1 to 3/Claimants

(Minor Represented by mother/guardian/
next friend Jayasudha-1st respondent herein).

4.Jotheeswaran

5.Subramani ... Respondents 4 & 5/Respondents 1 & 2

COMMON PRAYER: Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 18.08.2009 made in MCOP.Nos.165 and 166 of 2008 on the file of the Motor Accident Claims Tribunal (Principal Subordinate Judge), at Tiruppur.



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For Appellants : Mrs.R.Sreevidhya
[in both appeals]

For Respondents : Mr.Ma.P.Thangavel
[for R1 in C.M.A.No.3360 of 2010] &
R2 & R3- Exparte
[for R1 to R3 in C.M.A.No.3361 of 2010]
R4-Exparte, R5-NA

C O M M O N J U D G M E N T

The Appellant - Insurance Company in both the appeals, is the 3rd respondent in M.C.O.P.Nos.165 and 166 of 2008 on the file of the Motor Accident Claims Tribunal (Principal Subordinate Judge), at Tiruppur.

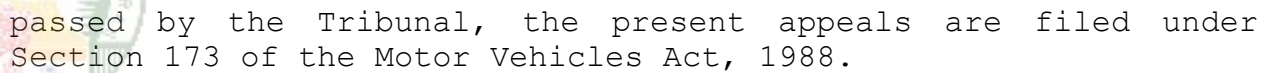
2. The claimants have filed the claim petitions under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.6,00,000/- for the injuries sustained by one Manisekaran and seeking compensation of Rs.25,00,000/- for the death of one Mohan Kumar in a road accident on 06.02.2008.

3. The case of the claimant is as follows:

On 06.02.2008, the deceased Mohan Kumar was riding his motor cycle bearing Registration No.TN-39-X-1740 on Perumanallur - Kunnathur Road with Manisekaran as a pillion rider. At about 8.00 p.m., near Karupparavan Nagar junction road, the 1st respondent in the claim petition/driver of the mini door auto bearing Registration No.TN-33-AE-0916 belonging to the 2nd respondent in the claim petition hit the motor cycle rashly and negligently, as a result of which, Mohan Kumar rider of the motor cycle died on the spot and the claimant Manisekaran sustained injuries all over his body and was rushed to Hospital. According to the claimants, the rash and negligent driving of the driver of the mini door auto belonging to the 2nd respondent was the cause of the accident and therefore, the owner of the auto and the appellant / Insurance Company are jointly and severally liable to pay the compensation to the claimants.

4. Heard both sides.

5. The learned Principal Subordinate Judge / Motor Accident Claims Tribunal, at Tiruppur awarded compensation of Rs.3,00,400/- and Rs.11,98,000/- to the claimants in M.C.O.P. Nos.165 of 2008 and 166 of 2008 respectively together with interest at the rate of 7.5% p.a. Aggrieved over the orders



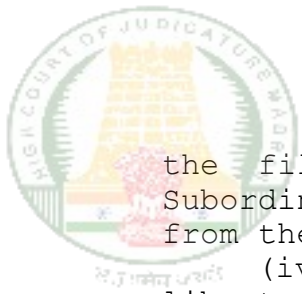
6. The learned counsel for the appellants contended that the Tribunal was wrong in fixing the negligence on the part of the driver of the mini door auto and that the Tribunal also awarded exorbitant amount as compensation. Therefore, she prayed for setting aside the orders passed by the Tribunal and to allow the appeals.

8. A perusal of a copy of First Information Report (Ex.P1) shows that the driver of the mini door auto was rash and negligent and there is nothing on record to show that the rider of the motor cycle was also responsible for the accident. The Tribunal after analysing the oral and documentary evidence adduced on the side of the claimants had clearly held that the driver of the mini door auto drove the vehicle in a rash and negligent manner and caused the accident and therefore 3rd respondent / Insurance Company is jointly and severally liable to pay compensation to the claimants.

10. In the result,

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

<https://hcservices.ecourts.gov.in/hcservices/>



the file of the Motor Accident Claims Tribunal (Principal Subordinate Judge), at Tiruppur, within a period of four weeks from the date of receipt of a copy of this judgment.

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

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal,
Principal Subordinate Judge,
Tiruppur.

+lcc to Mr.R.Srividya, Advocate Sr.91060
+lcc to Mr.Ma.P.Thangavel, Advocate Sr.90907

C.M.A.Nos.3360 and 3361 of 2010

tm[co]
srg 13/07/2020