

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CMA.NO.3653 OF 2013

AND

MP.NO.1 OF 2013

United India Insurance Co. Ltd.,
5B/11, Upstairs of State Bank,
Salem Road, Rasipuram. ...Appellant/2nd Respondent

vs.

1.Shankar ... Respondent/Petitioner
2.Valli
3.S.Padmanaban ... 1st Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 22.02.2012 passed in MCOP.No.48 of 2010 on the file of the Motor Accident Claims Tribunal/Subordinate Court, Rasipuram.

For Appellant : Mr.S.Arun Kumar
For Respondents : No appearance

J U D G M E N T

The United India Insurance Company, the second respondent in MCOP.No.48 of 2010 on the file of the Motor Accident Claims Tribunal/Subordinate Court, Rasipuram has filed the present appeal. The respondents 1 and 2/claimants filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.5,00,000/- for the death of their daughter Nandhini, aged 7 years in a road accident on 23.02.2007.

2. The case of the claimants in nutshell is as follows:

On 23.02.2007, the deceased Nandhini was a pedestrian on Mettala - Mullukkurichi Road, near Udayarpalayam Primary School and at about 11.05 am, a speeding bus bearing Registration No. TN 28 Q 4939 hit her, as a result whereof, she sustained fatal injuries and died on the spot. According to the claimants, the rash and negligent driving of the driver of the bus belonging to the third respondent was the cause of the accident and that since the said bus was insured with the appellant/United India

Insurance Company, the owner and the insurer of the bus are jointly and severally liable to pay compensation.

3. The owner of the bus (third respondent) remained absent before the Tribunal and therefore, he was set exparte. The learned Subordinate Judge/Motor Accident Claims Tribunal, Rasipuram after analysing the evidence on record, awarded a sum of Rs.4,12,936/- together with interest at the rate of 7.5% per annum to the claimants. Aggrieved over the quantum of compensation awarded by the Tribunal, the United India Insurance Company has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Heard Mr.S.Arun Kumar, learned counsel appearing for the appellant. No appearance on behalf of the respondents.

5. In the instant case, the deceased was just aged 7 years on the date of the accident. The Tribunal after considering all the aspects of the case has awarded a just compensation of Rs.4,12,936/- together with interest at the rate of 7.5% per annum to the claimants. By no stretch of imagination, the award passed by the Tribunal can be said to be on the higher side and in the facts and circumstances of the present case, the appeal fails and is dismissed.

6. In the result,

- (i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.
- (ii) The orders passed by the Tribunal is upheld.

Sd/-
Assistant Registrar(MDU)

//True Copy//

Sub Assistant Registrar

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To

- 1. The Motor Accidents Claims Tribunal,
The Subordinate Court, Rasipuram.
- 2. The Section Officer, VR Section,
High Court of Madras, Chennai.

+1cc to Mr.S.Arun Kumar, Advocate, S.R.No.96817

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VGII(CO)
CS/05/10/2020