

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 29.04.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM  
and  
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A No.2346 of 2019  
&  
C.M.P.No.10627 of 2019

M/s.United India Insurance Co.Ltd.,  
No.134, Greams Road,  
Chennai - 06.

... Appellant/2<sup>nd</sup> Respondent

-Vs-

1. Usha
2. Nithish Kumar (Minor)
3. Vaishnavi (Minor)  
(Respondent Nos. 2 & 3 are minors  
rep by Mother Usha, 1<sup>st</sup> respondent)
4. Govindamma
5. Lakshmanan ... R1 to R5/Claimants
6. M.Balaji ... 1<sup>st</sup> Respondent/6<sup>th</sup> Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree made in MCOP No.5675 of 2016, dated 08.10.2018 on the file of the Motor Accidents Claims Tribunal, Chief Court of Small Causes, Chennai.

For appellant : Mr.S.Arun Kumar

JUDGMENT

[Judgement of this Court was delivered by T.S.SIVAGNANAM.,J]

This Civil Miscellaneous Appeal is directed against the award and decree made in MCOP No.5675 of 2016, dated 08.10.2018

on the file of the Motor Accidents Claims Tribunal, Chief Court of Small Causes, Chennai.

2. We have heard Mr.V.Arun Kumar, learned counsel for the appellant.

3. The Tribunal by the impugned order dated 08.10.2018 granted a compensation of Rs.26,00,000/- towards death of one Murugan, the husband of the first claimant and the father of the minor claimants 2 and 3 and the son of the claimants 4 and 5. Before the Tribunal, the first claimant examined herself as P.W.1 and one Krishnan, eye witness was examined as P.W.3, in support of claimant's contention, 20 Exhibits were examined, Ex.P.1 to P.20, on the side of the appellant/Insurance Company which was the second respondent before the Tribunal no oral or documentary evidence was placed before the Tribunal.

4. The Tribunal took note of the evidence of P.W.2, eye witness, and noted that in the cross examination, the Insurance Company was unable to assail the evidence given by the eye witness. Further the Tribunal examined as to how a driver of heavy vehicle should follow certain precautions before he moves his vehicle. Further more, the Tribunal rightly noted the common practice of driver sleeping under the vehicle especially during the summer time.

5. Thus, the contention raised before us that there is a contributory negligence on the part of the deceased is not acceptable and we confirm the finding rendered by the Tribunal in this regard. There is no error in the fixation of the income in computing the age of the deceased or the multiplier. The compensation awarded under the different heads by the Tribunal is just and reasonable.

6. In the light of the above, the award passed by the Tribunal does not call for any interference. Accordingly, the appeal filed by the appellant/Insurance Company fails and dismissed. The appellant/ Insurance Company shall deposit the entire compensation amount awarded by the Tribunal with interest within the period of six weeks from the date of receipt of copy of this judgement.

7. On such deposit, the claimant/respondent Nos.1, 4 & 5 are permitted to withdraw their respective shares along with interest. In so far as the amount payable to the minor claimants 2 and 3 are concerned, the same shall be invested in a Nationalised Bank under reinvestment scheme till they attain majority. The first claimant/mother is permitted to withdraw the accrued interest on the minors' deposit direct from the Bank once in six months, periodically.

8. In the result the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

The Chief Judge,  
Motor Accidents Claims Tribunal,  
Court of Small Causes, Chennai.

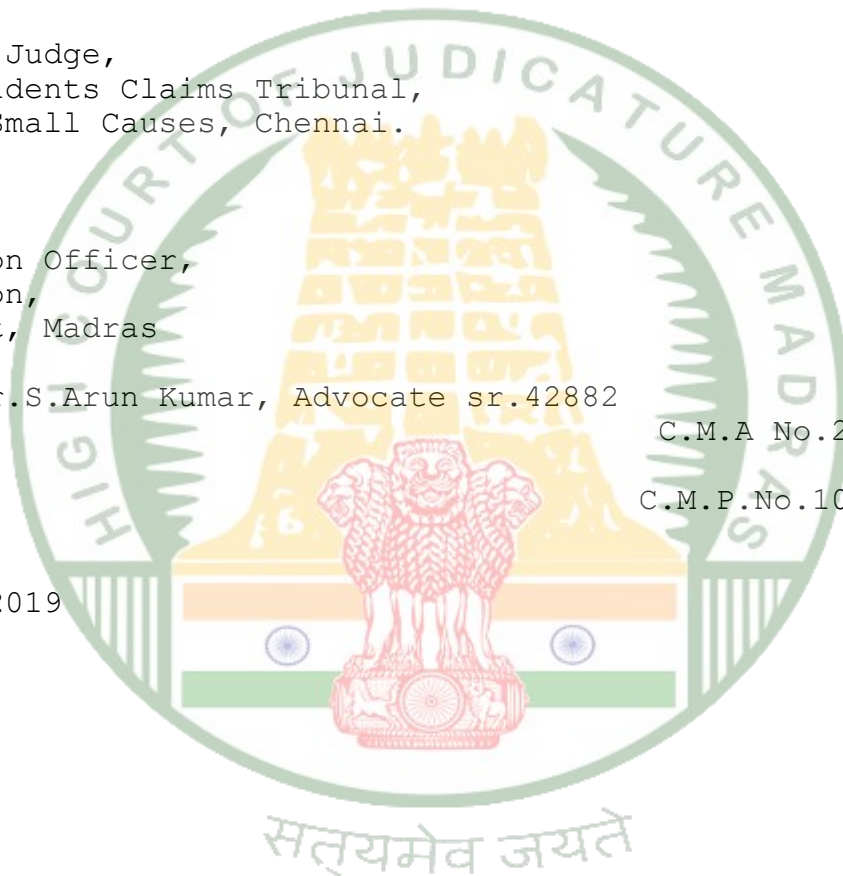
Copy to:

The Section Officer,  
V.R Section,  
High Court, Madras

+1cc to Mr.S.Arun Kumar, Advocate sr.42882

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