

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.No.168 of 2014
and M.P.No.1 of 2014

United India Insurance Co.Ltd.,
Represented by its Divisional Manager,
104-A, Christo Building,
Bank Road, Udhagamandalam,
The Nilgiris District. Appellant /3rd Respondent

vs.

1.M.Jaya
2.Uma Gowri
3.V.Rajendran
4.K.A.Girijan
.... Respondents/Petitioners
.... Respondents /Respondents 1 & 2

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 03.01.2012 made in MCOP.No.54 of 2010 on the file of the Motor Accident Claims Tribunal / District Judge, Udhagamandalam, Nilgiris District.

For Appellant : Mr.R.Sreevidhya

For Respondents : Mr.S.K.Raghunathan for R1 & R2
Mr.V.Raghavachari for R3 & R4

J U D G M E N T

The Appellant - United India Insurance Co.Ltd., is the 3rd respondent in M.C.O.P.No.54 of 2010 on the file of the Motor Accident Claims Tribunal / District Judge, Udhagamandalam, Nilgiris District.

2. The respondents 1 and 2 / claimants filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.7,00,000/- for the death of one Vinod, son of the 1st claimant and the brother of the 2nd claimant, in a road accident on 03.12.2009.

3. The case of the claimant in nutshell is as follows:

On 03.12.2009, the deceased was a Cleaner in a Goods Carriage vehicle bearing Registration No.TN-43-Z-0024 and was proceeding towards Udhagamandalam from Mettupalayam and at about 4.00 p.m., when they were nearing Barlier Highway, the

driver of the Goods Carriage vehicle drove the vehicle rashly as a result whereof, the vehicle rolled and fell 150 feet down into the deep valley. The deceased sustained fatal injuries and died in the hospital on the same date. According to the claimants, the rash and negligent driving of the driver of the Goods Carriage was the cause of the accident and that since the owner of the Goods Carriage had insured his vehicle with the present appellant, the owner and the insurer of the vehicle are jointly and severally liable to pay compensation.

4. The Tribunal, after analysing the evidence on record, awarded a compensation of Rs.6,50,000/- together with interest at the rate of 7.5% p.a. and directed both the owner and insurer to pay compensation jointly and severally. Aggrieved over the orders passed by the Tribunal, the appellant/Insurance Company has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988, questioning their liability to pay compensation on the ground that the deceased was a gratuitous passenger.

5. The learned counsel for the appellant/Insurance Company contended that since the deceased was not an employee under the owner of the Lorry, the liability cannot be fastened on the Insurance Company.

6. The claimants have adduced sufficient evidence to show that the deceased was working as a cleaner under the 1st respondent and a copy of the insurance policy shows that the Insurance Company is liable to pay compensation to the cleaner also. In the facts and circumstances, the orders passed by the Tribunal fastening liability on the part of the Insurance Company cannot be found fault with.

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

सत्यमेव जयते Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssn

To

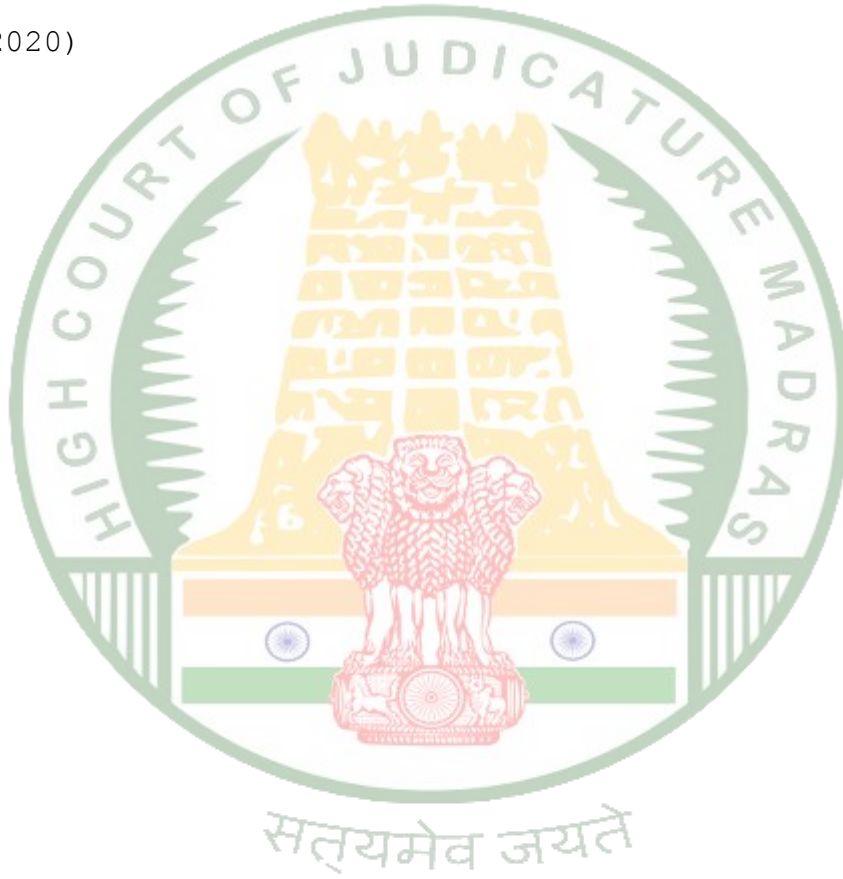
1. The District Judge,
Motor Accidents Claims Tribunal,
Udhagamandalam, Nilgiris District.

Copy to:
The Section Officer,
V.R.Section,
High Court,
Chennai.

+1cc to Mrs.R.SreeVidya, Advocate SR.93307/19

C.M.A.No.168 of 2014
and
M.P.No.1 of 2014

VGI (CO)
CB(15/06/2020)



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