

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED.18.09.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.2152 of 2013 &
M.P.No.1 of 2013

The New India Assurance Co. Ltd.,
No.45, Moore Street, Parrys, Chennai- 1
.... Appellant/2nd Respondent

vs.

1.Bommi
2.N.Velayutham ..1st & 2nd Respondent/1st & 2nd Petitioner
3.J.Sundaramurthy ..2nd Respondent/1st Respondent
4.M.Vinodh ..4th Respondent/3rd Respondent
5.S.Gopi ..5th Respondent/4th Respondent
6.The United India Insurance Co. Ltd.,
No.38, Anna Salai, Chennai - 2.
..6th Respondent/5th Respondent
7.S.Selvam ..7th Respondent/6th Respondent
(The 3rd, 4th, 5th & 7th
respondent remained exparte
and notice dispensed with for
them)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree made in MACTOP.No.2942 of 2006 on the file of the Motor Accident Claims Tribunal (VI Judge, court of Small Causes) at Chennai dated 07.07.2011.

For Appellant सत्यमेव जयते : Mr.M.Krishnamoorthy

For Respondents : Mr.S.Selvanandam for R1 & R2
R3, R4, R5 & R7 - set exparte
R6 - vacated

JUDGMENT

[This Appeal has been taken up for hearing through Video Conferencing]

This Appeal has been filed by the Insurance company challenging the award dated 07.07.2011 passed by the Motor Accident Claims Tribunal (VIth Court of Small Causes, Chennai) in MCOP.No.2942 of 2006.

2. The Tribunal under the impugned award directed the Appellant insurance company to pay the respondents 1 & 2 a compensation of Rs.523,370/- together with interest and costs as detailed hereunder:

Heads	Award Amount (Rs.)
Pecuniary loss	4,68,000/-
Funeral expenses	20,000/-
Transport to hospital	5,000/-
Medical expenses	5,000/-
Medical expenses	25,367/-
Total	5,23,367/-

3. At the outset, learned counsel for the Appellant submits that the entire award amount has been deposited to the credit of MCOP.No.2942 of 2006 and subsequently, the claimants have also withdrawn the said award amount.

4. The only ground raised by the Appellant/Insurance Company in this Appeal is that they are not liable to compensate the claim, since the motorcycle insured with them is not at fault for the cause of the accident. However, the evidence available on record before the Tribunal will conclusively establish that the rider of the vehicle insured with the Appellant alone is responsible for the cause of the accident for the following reasons:

(a) FIR (Ex.P1) has been registered only against the rider of the motor cycle insured with the Appellant. The charge sheet has also been filed by the Police only against the rider of the motorcycle insured with the Appellant.

(b) The pleadings of the claimants in their claim petition as well as the oral evidence adduced by them would clearly indicate that the rider of the motorcycle insured with the Appellant alone was responsible for the cause of the accident. The motorcycle insured with the Appellant came from behind and dashed against the share auto in which the deceased was travelling as a passenger.

5. All the above mentioned factors will conclusively establish that it was only the rider of the motorcycle insured with the Appellant was responsible for the cause of the accident resulting in the death of V.Sundar. The Tribunal has taken note of all these factors and has rightly rejected the contention of

the Appellant before the Tribunal.

6. Further in the case on hand, the award amount which was deposited by the Appellant before the Tribunal has already been withdrawn by the claimants and no useful purpose will be served, if this appeal is kept pending, that too, when evidence available on record will clearly indicate that it was only the rider of the motorcycle who was responsible for the cause of the accident.

7. For the foregoing reasons, there is no merit in this Appeal and this Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
VI Judge, Court of Small Causes,
at Chennai

2. The Section Officer,
VR Section, High Court,
Chennai.

सत्यमेव जयते

C.M.A.No.2152 of 2013

PP (CO)
GMY (26/04/2021)

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