

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

C.M.A. No.535 of 2014

M/s.United India Insurance Co. Ltd.
Rep. by its Divisional Manager
Katpadi Road, Vellore Appellant/2nd respondent

vs.

1.Smt.Margarate
2.S.Sabitha (Minor)
3.S.Yuvan Sarathi (Minor)
(Respondents 2 and 3 rep. by
mother & NF 1st respondent)
4.Smt.Koteeswari
5.K.Munisamy Respondents 1 to 5 / petitioners
6.K.M.Sasikumar6th respondent/ 1st Respondent

Civil Miscellaneous Appeal filed under Section 30 of the
Workmen's Compensation Act, 1923 against the order made in W.C.
No.345 of 2007, dated 4.10.2013 on the file of the Commissioner
for Workmens Compensation, Deputy Commissioner of Labour-I,
Chennai.

For Appellant : Ms.Harini
for M/s.M.B.Gopalan

For Respondents : Mr.C.Prabakaran for R1 to R5

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J U D G M E N T

Aggrieved by the order of the Commissioner for Workmen's
Compensation, Deputy Commissioner of Labour-I, Chennai, dated
4.10.2013 made in W.C. No.345 of 2007, the insurance company has
come forward with the present appeal.

2. The only ground taken up by the appellant/insurance company is that the driver, who drove the vehicle at the time of accident on 6.4.2007 that caused the death, was carrying crackers in the auto, which resulted in the death. The policy covers use only under a permit within the meaning of the Motor Vehicle Act, 1988 or such a carriage falling under sub-section 3 of Section 66 of the Motor Vehicles Act, 1988. In the investigation report of the Insurance Claims Investigator dated 17.04.2012, which has been marked on the side of the insurance company, states that, at the time of fire accident, fire crackers were loaded in the auto-rickshaw bearing Regn. No.TN-23 M-8359, and it caused the fire accident. The fire crackers were taken by a Commercial Passenger Vehicle is not allowed by the permit conditions as well as the policy conditions. Since there is a violation of permit and policy conditions, the claimants will not be entitled to any relief. Unfortunately, the Authority, by observing that the auto driver, may not know the items that are carrying could have suffered injury and died.

3. It is no doubt true that the accident has taken place and caused an injury and that there is a policy, the policy excludes the coverage for no fault of the driver. He died and the authority has given compensation payable to the dependents of the deceased family. Since there is a policy violation and that the name of the 6th respondent has been printed, no one has represented, this court is not inclined to interfere with the order granting compensation, except that, on payment of the amount, it is open to the insurance company to recover the amount from the 6th respondent, including attachment of his personal movable and immovable properties. The award of the authority is modified to that extent.

4. With the above observation and direction, the civil miscellaneous appeal is disposed of. However, there shall be no order as to cost.

सत्यमेव जयते

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

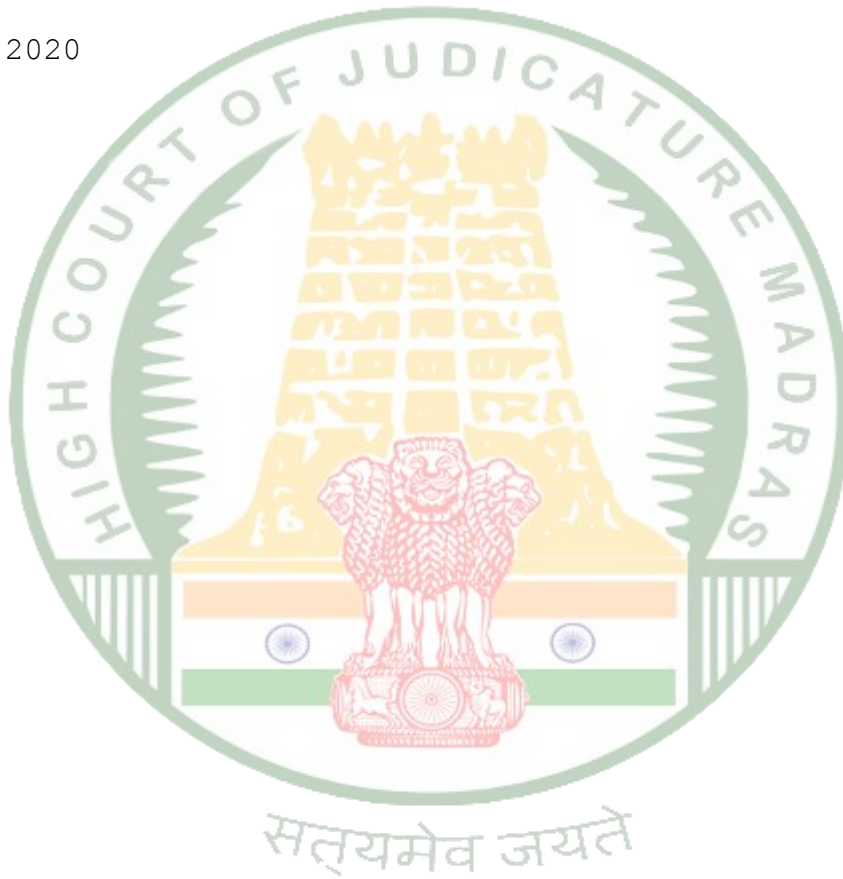
ASR

To
The Commissioner for Workmens Compensation,
Deputy Commissioner of Labour-I, Chennai.

+1cc to Mr.C.Prabakaran, Advocate, in C.A.S.R.No.12495 of 2020
Copy to the Section Officer, VR Section, High Court, Madras.

C.M.A. No.535 of 2014

RJI
adl/27.05.2020



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