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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2416 of 2015

and

MP No.1 of 2015

The Manager,  
M/s.United India Insurance Co. Ltd.,  
No.73/C, MTH Road,  
Ambattur,  
Chennai - 600 053.

...Appellant

Versus

1. Minor R. Ashwin  
2. V.Senthilvadivel

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 to prefer this Memorandum of Civil Miscellaneous Appeal against the Judgment and Decree passed in M.C.O.P. No.96 of 2011 on 11.04.2014 on the file of the learned Motor Accident Claims Tribunal (Subordinate Judge) of Tiruttani at Thiruvallur District.

For Appellant : Mr.J.Chandran

#### JUDGMENT

The appellant / Insurance Company has challenged the award dated 11.04.2014 passed by the Motor Accident Claims Tribunal (Subordinate Judge) of Tiruttani at Thiruvallur District in MCOP No.96 of 2011.

2. The appellant / Insurance Company has challenged the impugned award on the following grounds :

a) The Auto bearing Registration No.TN-20-M-9733 in which the first respondent / claimant was carrying more number of passengers than the permissible limit at the time of the accident and hence, the appellant / Insurance



Company is not liable to compensate the claim.

b) the quantum of compensation awarded by the Tribunal to the first respondent / claimant is excessive.

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3. Heard the learned counsel for the appellant and this Court has perused the materials and evidence available on record before the Tribunal.

4. With regard to the first contention raised by the appellant questioning their liability is concerned, this Court in connected appeals in CMA Nos.2128 and 2129 of 2015 in its Common Judgment dated 16.10.2019 involving other claimants, who travelled in the same Auto has held the Insurance Company liable to compensate the claim. Therefore, the contention of the appellant / Insurance Company questioning their liability to pay the compensation is rejected by this Court.

5. With regard to the quantum of compensation awarded by the Tribunal to the first respondent / minor claimant is concerned, the Tribunal under the impugned award has directed the appellant / Insurance Company to pay the first respondent / minor claimant a compensation of Rs.35,000/- together with interests and costs as detailed hereunder :-

| Heads              | Amount awarded by the Tribunal (Rs.) |
|--------------------|--------------------------------------|
| Injuries           | 25000                                |
| Pain and suffering | 5000                                 |
| Extra nourishment  | 3000                                 |
| Transportation     | 2000                                 |
| Total              | 35000                                |

6. The first respondent / minor claimant sustained lacerated injury on the face and head and abrasions all over his body and he was also hospitalised, as seen from the discharge summary, which was marked as Ex.P5 before the Tribunal. The Tribunal has assessed the compensation payable under various heads as indicated above only after giving due consideration to the oral evidence adduced by PW1, the mother of the minor claimant and the discharge summary (Ex.P5) issued by the hospital. The quantum of compensation awarded by the Tribunal to the first respondent / minor claimant is only Rs.35,000/- and it cannot be considered to be excessive as alleged by the appellant / Insurance Company. Therefore, the second contention of the appellant / Insurance Company questioning the quantum of



compensation is also rejected by this Court.

7. For the forgoing reasons, this Court is of the view that there is no merit in this appeal and the Civil Miscellaneous Appeal shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

8. The Appellant / Insurance Company is directed to deposit the entire award amount awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P. No.96 of 2011 on the file of the Motor Accident Claims Tribunal (Subordinate Judge) of Tiruttani at Thiruvallur District, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to deposit the award amount in Fixed Deposit in any one of the Nationalized Banks, till the first respondent / minor claimant attains the age of majority and the interest accrued thereon shall be withdrawn by the guardian of the minor claimant once in three months, directly from the Bank. If the first respondent / minor claimant attained the age of majority, it is open to him to file formal petition before the Tribunal to get the award amount. his share directly to his bank account through RTGS, within a period of two weeks thereafter.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Sub Judge  
Motor Vehicle Accidents Claims Tribunal,  
Tiruttani, Thiruvallur District.
2. The Section Officer,  
V.R. Section, High Court of Madras,  
Chennai - 104.

+1CC to Mr.J.Chandran, Advocate, Sr.No.25956

C.M.A.No.2416 of 2015

NK (CO)

K.RK. (18.11.2021)