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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1821 of 2020

and

C.M.P.No.13481 of 2020

(Through Video Conferencing)

The National Insurance Company Limited,
No.45, 1st Floor, Moore Street,
Chennai - 600 001.
Branch office at Thiruvallur.

... Appellant

Vs.

1.Usha

2.Aravind

3.Keerthana

4.Thinakaran

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 24.04.2019 in M.C.O.P.No.71 of 2017 on the file of the Motor Accident Claims Tribunal-I (Special District Judge), at Thiruvallur.

For Appellant : M/s.R.Sree Vidhya

For R1 to R3 : M/s.A.Subadra

For R4 : No appearance

J U D G M E N T

The Insurance Company is the appellant in this Civil Miscellaneous Appeal. It is aggrieved by the impugned Judgment and Decree dated 24.04.2019 passed by the Motor Accident Claims Tribunal-1 (Special District Court, Tiruvallur), Tiruvallur in M.C.O.P.No.71 of 2017.



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2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.12,37,520/- as compensation together interest at 7.5% per annum from the date of claim petition till the date of deposit and costs to the first to third respondents.

3. Aggrieved by the same, the present Civil Miscellaneous Appeal has been filed by the Insurance Company on the ground that the Tribunal ought to have scaled down the compensation by holding that the deceased was equally liable for the accident due to the contributory negligence.

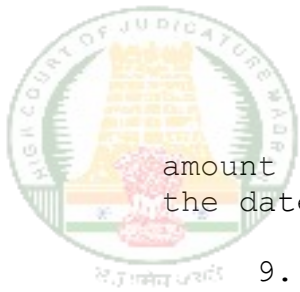
4. It was case of the first to third respondents / claimants before the Tribunal that on 24.05.2017 at about 00.05 hrs, when the deceased was riding a motorcycle bearing registration No.TN-58-H-5380 from south to north Maduravoyal Bye-Pass Road, near K.G.Signature area, the Container Lorry bearing registration No.TN-04-AJ-5153 of the fourth respondent insured with the appellant Insurance was parked on the road without following the traffic rules and without any signal. At that time, the motorcycle of the deceased hit at the back side of the Container Lorry, as result of which, the deceased sustained grievous injuries and died on the spot.

5. The learned counsel for the first to third respondents submits that the impugned Judgment and Decree is well reasoned and requires no interference.

6. I have considered the arguments advanced by the learned counsel for the appellant Insurance Company and the first to third respondents. I have also perused the impugned Judgment and Decree passed by the Tribunal and the evidence on record.

7. The Tribunal has come to a fair conclusion on facts that the driver of the insured Container Lorry parked the vehicle without any danger light, as a result of which, the deceased riding the motorcycle hit at the back side of the lorry and died on the spot. The finding given by the Tribunal that the vehicle was parked on the main road and not on the service road without parking light which clearly shows that the driver of the insured Container Lorry had parked the vehicle negligently knowing fully well that it is possible for vehicles to hit coming from behind of the insured Container Lorry. Under these circumstances, I find no merits in this Civil Miscellaneous Appeal.

8. Therefore, the appellant Insurance Company is directed to deposit the compensation of Rs.12,37,520/- together interest at 7.5% per annum from the date of claim petition till the date of deposit and costs as was ordered by the Tribunal, less any



amount already deposited, within a period of eight weeks from the date of receipt of a copy of this Judgment.

9. On such deposit, the first to third respondents are permitted to withdraw their share together with interest in the same proportion awarded by the Tribunal, less any amount already withdrawn, by filing suitable application before the Tribunal.

10. Accordingly, this Civil Miscellaneous Appeal is dismissed. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal-I,
(Special District Judge), Thiruvallur.

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

+1CC to Mr.R.Ravichandran, Advocate, Sr.No.24963

+1CC to Mr.M.Malar, Advocate, Sr.No.24859

C.M.A.No.1821 of 2020 and
C.M.P.No.13481 of 2020

PP (CO)

K.RK. (19.11.2021)