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C.M.A.No.1162 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2022

CORAM

THE HON'BLE MR.JUSTICE J.NISHA BANU

C.M.A.No.1162 of 2009
and M.P.No.1 of 2009

M/s.The Oriental Insurance Co., Ltd.,
669, Anna Salai,
Chennai – 6.
respondent.

... Appellant/4th

.Vs.

- | | |
|------------------------|--|
| 1.C.Penchilamma (died) | ..1 st respondent/claimant |
| 2.Shantilal Surana | ..2 nd respondent/1 st respondent. |
| 3.P.Gunasekaran | ..3 rd respondent/2 nd respondent. |
| 4.K.S.Rajesh Babu | ..4 th respondent/3 rd respondent. |

(Respondents 2 and 4 were set exparte
before the Tribunal)

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 19.10.2007 passed in 3204 of 2000 on the file of the Motor Accident Claims Tribunal



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(Fast Track Court -1) Chennai.

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For Appellant : Mr.S.Arunkumar

For Respondents : Not ready in Notice.

J U D G M E N T

Challenging the judgment and decree dated 19.10.2007 passed by the Motor Accidents Claims Tribunal (Fast Track Court -1) Chennai in M.C.O.P.No.3204 of 2000, the Insurance Company has come up with the present Appeal.

2. The brief facts of the case are as follows:

The first respondent/claimant is the mother of the deceased Sivasankar, who died in a motor accident. On 20.06.1996 at about 10.10 p.m. while the deceased Sivasankar was riding his motor cycle bearing registration No.TN-07-E-4447 from Mylapore to Royapettah from south to north direction, opposite to PORR & SONS, a Motor cycle bearing registration No.TN-04 1410 was driven in a rash and negligent manner came from the opposite direction, dashed against the motor cycle



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as a result of which, the deceased suffered head and skull injuries and died on the way to hospital. Therefore, the 1st respondent /claimant filed the claim petition claiming compensation against the appellant and the respondents 2 to 4.

3. The Tribunal, after analyzing the materials and evidence available on record, found that the negligence is only on the part of the rider of the motor cycle and fastened liability on the appellant insurance company. The Tribunal awarded total compensation of Rs.2,62,000/- to the first respondent/claimant with interest at the rate of 9% per annum from the date of petition till the date of realisation and the claim petition was dismissed as against the 3rd respondent.

4. Aggrieved by the award fastening liability on the insurance company, the appellant/insurance company is before this Court by way of this appeal.



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5. Learned counsel for the appellant-insurance company would submit that the Tribunal failed to note that the commercial policy does not automatically cover the risk of the rider. He would further submit that the Tribunal failed to note that as per Ex.R.2/ copy of the insurance policy, the appellant is not liable to pay compensation to the first respondent.

6. Heard the learned counsel for the appellant insurance company and perused the materials available on record.

7. A perusal of the court records would go to show that counsel for the appellant has not taken any steps to serve the respondents and batta not filed. Even though this civil miscellaneous appeal has been admitted and interim stay has been granted and notice has been ordered as early as on 30.04.2009, till date no steps have been taken by the counsel for the appellant to serve notice on the contesting respondents. That apart, on a perusal of the award, this Court finds no reason to interfere with the award passed by the Tribunal and the appeal is liable to



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be dismissed.

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8. In the result, (i) the Civil Miscellaneous Appeal is dismissed. (ii) The award dated 19.10.2007 granting compensation of Rs.2,62,000/- is confirmed.

(iii) Interest at the rate of 9% p.a., granted by the tribunal is modified to 7.5% p.a.

(iv) The appellant-insurance company is directed to deposit the award amount along with interest at the rate of 7.5% p.a., from the date of petition till the date of deposit, less the amount, if any already deposited, within a period of 8 weeks from the date of receipt of a copy of this order.

(v) On such deposit, the Tribunal is directed to disburse the award amount to the legal heir of the 1st respondent, on production of necessary documents and furnishing appropriate application. No costs. Consequently, connected Miscellaneous Petition is closed.



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kkd/nvsri

J.NISHA BANU, J.

Kkd/nvsri

To

The learned Judge, Motor Accident Claims Tribunal
(Fast Track Court -1) Chennai.

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