



C.M.A.No.1897 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 10.11.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.1897 of 2013

&

M.P.No.1 of 2013

The Divisional Manager,
M/s.National Insurance Co. Ltd.,
No.19, Officer's Line, 1st Floor,
Opp. Lakshmi Theatre,
Vellore

...Appellant

Vs

1.Munusamy

2.Palani

3.Muniammal

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgement and Decree passed in M.C.O.P.No.420 of 2008 on 04.10.2012 on the file of the Motor Accident Claims Tribunal (Principal Subordinate – Judge), at Tiruvannamalai – District.



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For Appellants : Mr.J.Chandran

For Respondent 1 : Mr.B.Jawahar

For Respondents 2 & 3 : No Appearance

JUDGEMENT

The above appeal is one amongst the batch of appeals arising out of the claim petitions from the same accident in C.M.A.No.1831 to 1833 of 2013, which was disposed on 07.08.2020, C.M.A.No.1991 of 2013, which was disposed on 23.01.2020 and C.M.A.No.3360 of 2013, which was disposed on 26.03.2021.

2. The above appeal arises against the order in M.C.O.P.No.420 of 2008 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Court, Tiruvannamalai. The petitioners had claimed compensation for the death of their mother, who had died in a road



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accident on 03.08.2004. The accident had occurred when the petitioner's mother along with the others had travelled in a goods carriage vehicle.

3. The Insurance Company had taken a plea that the deceased was a gratuitous passenger. Therefore, there is a violation of the provisions of the Motor Vehicles Act as well as Policy and they were not liable to compensate the petitioners.

4. The Tribunal however had awarded a sum of Rs.45,000/-, which is challenged by the appellant / Insurance Company. In a connected appeal, namely, C.M.A.No.1991 of 2013, this Court had allowed the appeal filed by the Insurance Company. Likewise, C.M.A.Nos.1831 to 1833 of 2013 were also allowed. However, C.M.A.No.3360 of 2013, was dismissed by this Court and the Insurance Company was directed to pay a compensation of Rs.10,000/-



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since it was the case of injuries.

5. Considering the above, this Court follows the above orders and the Civil Miscellaneous Appeal stands dismissed. However, adopting the order in C.M.A.o.3360 of 2013 since it is a case of a fatal accident, the appellant/insurance company is directed to pay compensation of a sum of Rs.40,000/- under the no fault liability clause. The said sum will be deposited, less the amount if already deposited within a period of four weeks from the date of receipt of the order. On such deposit being made by the insurance company, the claimants are at liberty to withdraw the same, after following due process of law. No costs. Consequently, connected Miscellaneous petition is closed.

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Index : Yes/No

Speaking order/non-speaking order



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The Motor Accident Claims Tribunal
(Principal Subordinate – Judge), at
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P.T.ASHA, J.,

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