



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 30.03.2022

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.4642 of 2019

&

C.M.P.No.26294 of 2019

The Divisional Manager,
United India Insurance Co. Ltd.,
Motor Third Party Claim Office,
No.66, 68, Gandhi Road,
Kanchipuram.

...Appellant/2nd Respondent
Vs

1.E.Selvi

2.K.Ekambaram

3.E.Prabu

...1 to 3 Respondents/ Petitioners

4.P.Udhayakumar

...4th Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the award and decree dated 07.12.2018 made in M.C.O.P.No.647 of 2014 on the file of the Motor Accident Claim Tribunal, (District and Sessions Judge, Additional District Court, (Fast Track Court), Kanchipuram).

For Appellant : Mr.Dhiraviyanathan.A

For Respondents 1 to 3 : Mr.M.Sivakumar

For Respondent 4 : Mr.K.Varadhakamaraj

JUDGEMENT

The 2nd respondent Insurance Company is before this Court challenging the award passed in M.C.O.P.No.647 of 2014 by the Motor Accident Claims Tribunal (District and Sessions Judge), Additional District Court, (Fast Tract Court), Kancheepuram.

2. The Insurance Company has challenged the award on the ground that the negligence was only on the part of the deceased.



3. The learned counsel for the Insurance Company would argue that the manner in which the accident had taken place clearly indicates that Bajaj Discover motor cycle bearing registration number TN 25 AV 5132 is responsible for the accident and therefore the Tribunal ought to have apportioned the liability on the owner of the Bajaj Discover motor cycle. The Insurance Company has also questioned the quantum.

4. The learned counsel appearing for the claimants and the owner of the 1st respondent Motor Cycle had denied the contentions raised by the learned counsel for the Insurance Company.

5. Heard the learned counsel and perused the records.

6. A perusal of the oral evidence and documentary evidence submitted by the claimants would clearly indicate that the contention that the accident was caused by the rider of the Bajaj Discover bike may not hold good in the light of the evidence of R.W.2, Police Official who would submit that the accident was caused only by the deceased Prasanth. However, there are no eye witnesses to the accident. The FIR has been filed only against the rider of the motor cycle in which the deceased was travelling.

7. However, there is no rebuttable evidence on the side of the appellant Insurance Company.

8. In these circumstances, this Court has to necessarily confirm the award passed by the Tribunal. Hence the appeal stands dismissed. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

kan

To

The Motor Accident Claim Tribunal,
District and Sessions Judge,
Additional District Court, (Fast Track Court), Kanchipuram.

+1 cc to Mr.C.Prabhakaran, Advocate Sr.NO. 21436

+1 cc to Mr.L.Varadhakamaraj, Advocate Sr.NO. 21320

C.M.A.No.4642 of 2019

PMK(CO)

A.SK(20/05/2022)