



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2022

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM
AND
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.NO.1243 OF 2017
AND
CROSS.OBJ.NO.7 OF 2022

IN C.M.A.NO.1243 OF 2017

M/s.United India Insurance
Company Limited,
No.48, Arcot Road,
Saligramam,
Chennai - 600 093.

... Appellant/2nd Respondent

.Vs.

1. Sunitha	... 1 st Respondent/1 st Claimant
2. Hasim	... 2 nd Respondent/2 nd Claimant
3. Anshik	... 3 rd Respondent/3 rd Claimant
4. Baskaran	... 4 th Respondent/1 st Respondent

PRAYER:-

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 against the decree and judgment dated 11.11.2016, passed in M.C.O.P.No.430 of 2014, by the Motor Accident Claims Tribunal/II Additional District Judge, Poonamallee.

For Appellant : Mr.J.Michael Visuvasam

For Respondents

For RR1 to 3 : Mr.K.Varadha Kamaraj

For R4 : Set Ex-parte before
the Tribunal



IN CROSS OBJ.NO.7 OF 2022

1. Sunitha

2. Hasim

3. Anshik

... Appellants/Cross Objectors

Versus

1. M/s.United India Insurance
Company Limited,
No.48, Arcot Road,
Saligramam,
Chennai - 600 093.

2. Baskaran

... Respondents/Respondents

PRAYER:-

Cross Objection filed under Order 41, Rule 22 of the Code of Civil Procedure, against the judgment and decree dated 11.11.2016 made in M.C.O.P.No.430 of 2014, by the Motor Accident Claims Tribunal/II Additional District Judge, Poonamallee.

For Appellant : Mr.K.Varadha Kamaraj

For Respondents

For R1 : Mr.J.Michael Visuvasam

For R2 : Set Ex-parte before
the Tribunal

C O M M O N J U D G M E N T

[Judgment of the Court was delivered
by K.KALYANASUNDARAM, J]

The appeals are heard through video conferencing.

2. Challenging the judgment and decree dated 11.11.2016 passed by the Motor Accident Claims Tribunal/II Additional District Judge, Poonamallee in MCOP.No.430 of 2014, the Insurance Company has preferred the appeal in C.M.A.Nos.1243 of 2021.



WEB COPY

S. No.	Heads under which amount is awarded	Amounts awarded by the Tribunal in Rs.	Amounts awarded by this Court in Rs.
1.	Loss of Income	20,40,000	22,68,000
2.	Funeral Expenses and Transport Charges	50,000	15,000
3.	Loss of Love and Affection	3,00,000	-
4.	Loss of Filial Consortium	-	1,20,000
5.	Loss of Clothes	2,000	
6.	Loss of Estate	-	15,000
	Total	23,92,000	24,18,000

13. With regard to negligence, there is no contra evidence produced by the Insurance Company. PW2 deposed that the driver of the Bolero Van drove the vehicle in a rash and negligent manner and the same is supported by documentary evidence Ex.P1 and P15. So, we find no reason to interfere with the finding regarding negligence. However, Ex.P2 would reveal that the Bolero Van has a seating capacity of 2 persons, whereas RW1 deposed that at the time of accident, 3 persons travelled in the vehicle. So, it is a clear case of policy violation. Taking note of the facts that the deceased was a third party, the Insurance Company is directed to pay the above modified compensation to the claimants at the first instance and thereafter recover the same from the owner of the vehicle.

14 (i). In the result, the appeal preferred by the Insurance Company is dismissed and the cross-objection filed by the claimants is partly allowed. The Insurance Company is directed to deposit the above modified award amount with accrued interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw the award amount, less the amount already withdrawn, if any, together with proportionate interest and costs. The apportionment of shares as fixed by the Tribunal to the claimants remains unaltered. No costs.

(ii) The Insurance Company is permitted to recover the above compensation amount in accordance with law from the owner of the



Bolero Van bearing Registration No.TN-31-AQ-3686 after making payment to the claimants.

WEB COPY

Sd/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

pvs

To

1. The II Additional District Judge,
The Motor Accident Claims Tribunal,
Poonamallee.
2. The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.J.Michael Visuvasam, Advocate, S.R.No.1386
+1cc to Mr.K.Varadha Kamaraj, Advocate, S.R.No.1215

C.M.A.NOS.1243 OF 2017 AND
CROSS.OBJ.NO.7 OF 2022

BS (CO)
PBS/25/04/2022