



C.M.A.No.2602 of 2022

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 28.11.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.2602 of 2022

and

CMP.No.20295 of 2022

United Indian Insurance Co. Ltd.
Christo Building Bank Road
Ooty - 643001 ... Appellant

Vs.

1.Kamachi
2.Jothi Lakshni
3.Kamalraj
4.Krishnasamy ... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Judgment and Decree dated 10.01.2017 made in M.C.O.P.No.953 of 2012 on the file of the learned Subordinate Judge, Motor Accident Claims Tribunal, Dharapuram.

For Appellant : M/s.I.Malar

For Respondents : Mr.MA.P.Thangavel for R1 and R2



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JUDGMENT

The Insurance Company has challenged the Award passed by the learned Subordinate Judge, Motor Accident Claims Tribunal, Dharapuram, in M.C.O.P.No.953 of 2012. The Insurance Company had questioned the quantum of compensation. The parties are referred to in the same rank and array as before the Tribunal.

2.The facts in brief are as follows:

The petitioners are the parents of one Sivachandran, who had died in the accident on 06.04.2012. The deceased was about 21 years and working as a construction fitter. The petitioners had stated that he was earning a monthly income of Rs.15,000/- . On the fateful day, the said Sivachandran was travelling along with two others in a motor cycle from Ruthravathi to Kundalam. The deceased had ridden the motor cycle and his friends were travelling Pillion on Coimbatore to Dharapuram road. At that time a Tempo van bearing Registration



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No.TN 43D 0721 driven by its driver in a rash and negligent manner came in the opposite direction and dashed against the motor cycle. As a result of which, the deceased has sustained fatal injuries. Therefore, the petitioners have claimed a sum of Rs.10 lakhs as compensation.

3.The 1st respondent is the driver of the offending vehicle and the 2nd respondent is the owner of the vehicle. The 3rd respondent is the insurer of the vehicle. The respondents 1 and 2 remained *ex parte* and only the Insurance Company has contested the claim petition denying the age, income and occupation of the deceased and also contending that there is a violation of the road rules inasmuch as there are two people travelling pillion. That apart, the 2nd respondent put the petitioners to prove that the 1st respondent was in possession of a valid driving license.

4.The Tribunal on considering the evidence had fastened the liability on the driver of the Tempo van against whom the charge sheet



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had been framed. Ultimately, the Tribunal had awarded a sum of Rs.9,37,000/- as compensation. Challenging the same, the above appeal has been filed.

5.The appellant had not been able to make out any case as to how the compensation granted was an excess. The claimants have lost their son, aged about 21 years, in a road accident which is only on account of the rash and negligent driving by the 1st respondent. The Tribunal has rightly assessed the compensation under the various heads and passed the Award. I see no reason to differ from the view taken by the Tribunal. This Civil Miscellaneous Appeal is dismissed. No costs.

6.Consequent to the dismissal of the appeal, the appellant /Insurance Company is directed to deposit the entire amount, less the amount already deposited, with proportionate accrued interest and costs, to the credit of M.C.O.P.No.953 of 2012 on the file of the



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learned Subordinate Judge, Motor Accident Claims Tribunal, Dharapuram, within a period of four weeks from the date of receipt of a copy of this order, if not deposited earlier. On such deposit, the claimants are permitted to withdraw the entire award amount with proportionate accrued interest and costs as apportioned by the Tribunal, by making necessary applications.

The claimants are directed to pay the Court fee for the compensation amount, if required. The Tribunal below shall not disburse the amount till such time as proof of payment of Court Fee has been produced by the claimants. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes/No
Internet : Yes/No
Speaking order / Non speaking order
mps

To
The Subordinate Judge,

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Motor Accident Claims Tribunal,
Dharapuram.

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P.T. ASHA, J,

mps

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