



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

CMA.No.2273 of 2018

and

CMP.No.17346 of 2018

United India Insurance Co. Ltd.,
TP HUB, Meiyannur Main Road,
Salem - 636 007.

...Appellant / 2nd Respondent

Vs.

1.Vijaya

.. 1st Respondent / Petitioner

2.Karthikeyan (died)
Rep.by Father Madhaiyan

.. 2nd Respondent / 1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, to set aside the decree and judgment dated 29.01.2018 made in MCOP No.514 of 2016 on the file of the Motor Accident Claims Tribunal (Special District Judge), Salem.

For Appellant : Mr.C.Paranthaman

For Respondents : Mr.S.P.Yuvaraj

J U D G M E N T

The 2nd respondent in MCOP.No.514 of 2016 which was pending before the Motor Accident Claims Tribunal, Salem / the Special Court for Motor Accident Claims Tribunal, Salem is the appellant herein.

2.Heard Mr.C.Paranthaman, learned counsel for the appellant and Mr.S.P.Yuvaraj, learned counsel for the 1st respondent who is the mother of the 2nd respondent / deceased.

3.It is stated that on 28.04.2009 in the early morning at 12.30 hours, the 2nd respondent / Karthikeyan was travelling in



his own Maruti Omni car bearing Registration No.TN-30-9290 proceeding from Bangalore to Salem in the National Highway. At Krishnagiri, Sappaanipatti bridge, the driver of the vehicle appears to have driven the vehicle in a rash and negligent manner and lost control and the vehicle met with an accident by colliding with a lorry which was moving in front. As a result, the 2nd respondent, and three others including the driver died at the spot itself.

4.Claiming compensation, MCOP.No.514 of 2016 had been filed. The Tribunal, had granted a compensation of Rs.8,86,800/-. They had apportioned a sum of Rs.8,56,800/- as loss of future income and granted for funeral expenses a sum of Rs.15,000/- and towards loss of estate a sum of Rs.15,000/-.

5.Questioning such award, the Insurance Company / 2nd respondent has preferred this appeal before this Court.

6.Mr.C.Paranthaman, learned counsel for the appellant relies on Ex.P5, Policy of Insurance, which provides that in the case of personal accident of the owner, the Insurance Company is liable to pay a consolidated sum of Rs.2,00,000/-. It is stated that the vehicle, belonged to the 2nd respondent. Ex.P5 very clearly establishes that the policy was in the name of the 2nd respondent / deceased M.Karthikeyan and therefore, as owner having suffered a personal accident, there is a limitation in the policy itself that the compensation payable is only Rs.2,00,000/-.

7.Learned counsel for the appellant was place reliance on 2020 (1) TN MAC 1 (SC), Ramkhiladi and another v. United India Insurance Co. Ltd and another, wherein also it had been stated that insurer is not liable to pay compensation as awarded by the Tribunal, but liable to pay the amount under the policy in case the deceased was the owner of the vehicle.

8.There is also no evidence in this particular case that the driver was in the employment of the deceased. The petition was also filed under Section 166 of the Motor Vehicles Act, 1988 and therefore, the liability of the insurer, is limited only to the aforementioned Rs.2,00,000/-.

9.It is stated by both the learned counsels that 50% of the award amount had been deposited at the time of filing the appeal. Hence, a sum of Rs.2,00,000/- may be retained and the excess amount already deposited at the time of admission may be refunded back to the Insurance Company on filing necessary



application before the Trial Court. The compensation amount of Rs.2,00,000/- and the accrued interest on Rs.2,00,000/- before the Trial Court may be paid to the 1st respondent.

10.The Civil Miscellaneous Appeal is allowed with the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

smv

To:-

1.The Motor Accident Claims Tribunal,
(Special District Judge) Salem.

+1cc to Mr.C.Paranthaman, Advocate SR.No.8746

+1cc to Mr.S.P.Yuvaraj, Advocate SR.No.8629

CMA.No.2273 of 2018
and

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SS (CO)

CB(06/04/2022)