BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.02.2022

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A(MD) No.682 of 2017
and
C.M.P(MD)No.7102 of 2017

M/s.United India Insurance Company ltd.,
11/2 ET Complex,
New Scheme Road,
Pollachi-642 092,
Branch Office, Divisional Manager,
United India Insurance Company Ltd.,
Divisional Office No.1,
Promenade Road, Cantonment,
Trichirappalli-1. .. Appellant/2nd Respondent

vs.

1.Manimaran
(Minor R1 is Declared as major and mother and natural guardian, R4 discharged from guardianship vide Court order dated 09.02.2022)

2.Malar
3.Dhanalakshmi
4.Amala @ Revathi ..Respondents 1 to 4/Claimants 1 to 4
5.M/s.A.B.T.Limited,
10/13, 15 Kalingarayan Theru,
Ram Nagar, Kovai-9. ..5th Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of M.V.Act, 1988, to set aside the order passed by the Motor Accident Claims Tribunal/Special District Judge, Tiruchirappalli in M.C.O.P.No.3522 of 2013, dated 29.06.2016 as against the appellant and allow the appeal.

For Appellant : Mr.N.Dilip Kumar
For R1 to R4 : Mr.N.Sudhagar Nagaraj
For R5 : No appearance

J U D G M E N T

The Insurance Company is the appellant herein. The respondents 1 to 4 are the legal representatives of the deceased Karthikeyan @ Karthikesan.

2. The factum of the accident and the manner of the accident as

held by the Tribunal is not under challenge and hence, the same is hereby confirmed.

3. The appellant Insurance Company has raised a plea that since the accident has taken place due to the negligence of the Railway authorities for not deploying the necessary man to regulate unmanned crossing, the accident has taken place, therefore, the Insurance Company is not liable to pay the compensation.

4. The Tribunal based upon the evidence of R.W.2 has held that the Railway authorities has not followed the rules and regulations while diverting the bus route due to formation of broad cage track and there is no proper signal given by the Railway authorities, the deceased driver of the lorry is not on negligence. Accordingly, calculated the compensation and fixed the liability upon the Insurance Company. After perusing the evidence of R.W.2 and also the findings of the Tribunal, I do not find any error in fixing the liability on the Insurance Company.

5. On the point of quantum of compensation, based on the evidence of R.W.2, Ex.P4 - Salary receipts, the Tribunal has properly fixed the salary at Rs.6,600/-. The age of the deceased is fixed at 42 years based upon the driving licence Ex.P5. The proper multiplier has been adopted by the Tribunal as per the ***Sarla Verma -Vs.- Delhi Transport Corporation, 2009(2) TNMAC 1(SC).*** The other heads of compensation are found to be just and reasonable.

6. For the reasons stated above, I find no reasons to interfere with the conclusion reached by the Tribunal. In fine, this Civil Miscellaneous Appeal fails and the same is dismissed. Since the entire award amount has already been deposited before the Tribunal, the respondents 1 to 4/claimants are permitted to withdraw the award amount by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The Special District Judge (MCOP)/ Motor Accident Claims Trinbunal/, Tiruchirapalli,

2.The Record Keeper,
Vernacular Section,

Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.N.SUDHAGAR NAGARAJ, Advocate (SR-5299[F] dated 10/02/2022)

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-5455[F] dated 10/02/2022)

C.M.A(MD) No.682 of 2017
09.02.2021

SVS(CO)
KB(30.03.2022) 3P 6C