



C.M.A.No.2761 of 2007

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.10.2023

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2761 of 2007
and M.P.No.1 of 2007

United India Insurance Co.Ltd.,
208, T.V.Samy Road, R.S.Puram,
Coimbatore.

... Appellant/2nd Respondent

Vs

1.C.Govindaraj

2.G.Dhanalakshmi

... Respondents 1 & 2
/Petitioner

3.N.Balaji

4.S.Dharman

5.P.V.Shivashunmugam

6.United India Insurance Co.Ltd.,
11/8, Muthian Complex,
Mettur Road, Erode.

... Respondents 3 to 6
/Respondents-1 & 3 to 5



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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 19.05.2006 made in M.C.O.P.No.439 of 2002 on the file of the The Motor Accidents Claims Tribunal, FTC-IV, Tirupur.

For Appellant ... M/s.S.Arun Kumar

For Respondents ... Mr.Ma.P.Thangavel for [R1 & R2]
... Notice not in ready [R3 & R4]
... No Appearance [R5 & R6]

JUDGEMENT

Aggrieved by the impugned award dated 19.05.2006 passed by the The Motor Accidents Claims Tribunal, FTC-IV, Tirupur in M.C.O.P.No.439 of 2002, the Appellant-Insurance Company has filed the present appeal questioning its liability.

2. It is the case of the claimants that on 10.01.2001, at about 3.30 A.M, when the deceased namely Suresh was travelling in the eicher van bearing Reg.No.TN 39 P 0770 belonging to the 3rd Respondent, at that time, a Lorry bearing Reg.No.TAS 7959 belonging to the 5th respondent which was coming



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in the opposite direction collided with the van due to the rash and negligent driving of its driver, thereby the deceased sustained fatal injuries and died on the spot. Aggrieved by the loss incurred in view of the said accident, the dependants of the deceased/claimants filed a claim petition claiming compensation towards the death of the deceased. After adjudication, the Tribunal has awarded a sum of Rs.1,99,000/- to the claimants and has directed the Insurance-Company as well as the 3rd Respondent to jointly and severally pay the compensation awarded by the Tribunal. Aggrieved by the said award, the Appellant/Insurance Company has filed the present appeal questioning the liability of the insurer.

3. Learned counsel appearing for the Appellant-Insurance Company submitted that though it is claimed that at the time of accident, the deceased was working as a quality controller in the business firm run by the 3rd respondent and that he was travelling in the van only to check the quality of the goods and not as an unauthorized passenger, no evidence has been adduced before the Tribunal to substantiate the said claim. Therefore, the claimants



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cannot claim any compensation at the hands of the Insurance Company on the sole ground the present appeal has been filed.

4. Per contra, learned counsel appearing for the Respondents 1 & 2/Claimants submitted that the question of liability relating to the very same accident was already questioned before this Court in C.M.A.No.660 of 2006, wherein this Court had dismissed the said appeal by confirming the liability fastened on the Insurance Company. Hence, this Court may dismiss the present appeal as well.

5. In view of the aforesaid submission of the learned counsel appearing for the claimants, the question of liability relating to the aforesaid accident having already been decided by a learned single Judge of this Court in C.M.A.No.660 of 2006, this Court is not inclined to interfere with the award passed by the Tribunal with regard to the finding relating to liability and this Appeal deserves to be dismissed.



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6. Accordingly, the appeal is dismissed and the impugned award passed in M.C.O.P.No.439 of 2002 stands confirmed. However, there shall be no order as to costs in this Appeal. Consequently, the connected miscellaneous petition is closed.

10.10.2023

Index : Yes / No

Speaking Order / Non-speaking order

Neutral Citation Case : Yes / No

NHS

To

1.The Motor Accident Claims Tribunal,
III Judge, I/c.Chief Judge,Court of Small Causes,
Chennai.

2.The Section Officer,
V.R. Section,
High Court, Madras.



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M.DHANDAPANI, J

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