



CMA Nos.157 and 144 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 31.01.2023

PRONOUNCED ON : 02.03.2023

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA Nos.157 and 144 of 2023
and CMP Nos.1278 & 1348 of 2023

CMA No.157 of 2023

United India Insurance Co. Ltd.,
Divisional Office, 139,
Kumaran Road, Tiruppur – 641 018

... Appellant

Vs.

1. M.Dhanalakshmi
2. P.Muthu
3. G.Perumal.

... Respondents

CMA No.144 of 2023

United India Insurance Co. Ltd.,
Divisional Office, 139,
Kumaran Road, Tiruppur – 641 018

... Appellant

Vs.

1. V.Poongodi
2. O.Vanangamudi
3. G.Perumal.

... Respondents



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COMMON PRAYER: These Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicles Act, 1988, against the common decree and judgment dated 28.03.2019 made in MCOP No.312 & 311 of 2016 on the file of the Motor Accident Claims Tribunal, Sub Court, Sathyamangalam.

For Appellant : Mr.S.Arunkumar
in both cases

For Respondents : Mr.R.Nalliyappan (for R1 & R2)
in both cases

COMMON JUDGMENT

Both the Civil Miscellaneous Appeals are by consent taken up together, for final disposal.

2. The respective 1st and 2nd respondents are the claim petitioners, who have filed separate claim petitions, seeking compensation for the death of their sons, who were aged 21 years, at the time of the accident.

3. Both the MCOPs were tried together and during the trial, on the side of the the claim petitioners, PW1 to PW4 were examined and Ex.P1 to Ex.P23 were marked. On behalf of the respondents, no oral or documentary evidence has been let in.



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4. On consideration of both oral and documentary evidence, the tribunal has come to the conclusion that while both the deceased persons were travelling in a two wheeler on the left hand side of the road moving West to East, at Periyakulam to Batlagundu road, a TATA Sumo vehicle insured with the appellant-Insurance company, which came from behind hit against the persons, who were travelling in the two-wheeler and thereby, both of them were thrown out of the road and subsequently, died due to the injuries. Accordingly, the tribunal has held that the accident has taken place due to the rash and negligent driving of the driver of the vehicle insured with the appellant-insurance company. Further, the claims tribunal has awarded Rs.18,84,400/- to the claim petitioners, in each of the claim petitions.

5. Challenging the said finding fixing negligence and also the quantum of compensation, the Insurance company has preferred the appeals in both the cases.

6. Factum of the accident, manner of the accident, are not disputed



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and hence, the findings of the tribunal are confirmed.

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7. According to Mr.Arun Kumar, learned counsel for the appellant-Insurance company, at the time of the accident, the rider of the two wheeler was under the influence of alcohol. He could not control the vehicle and resulted in the death, much less he could further contend that the rider of the two wheeler also died in the accident.

8. On perusal of Ex.P1-FIR and Ex.P2-Charge sheet, there is no indication that he was driving the vehicle under the influence of the alcohol. Perusal of Ex.P14, proves that there is no indication in the Postmortem report as to the consumption of alcohol as stated by the insurance company. Further, as per Ex.P17, he possessed valid driving license and hence, there is no violation of policy condition. Therefore, the appellant-insurance company being the insurer of the offending vehicle is liable to pay compensation to the claimants in both the claim petition and both the points raised by the appellant counsel is negatived.



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9. On the point of quantum of compensation, after going through the award, I am of the view that the same is in consonance with the decisions of our Hon'ble Supreme Court in *Sarla Verma and Others Vs. Delhi Transport Corporation*, reported in **2009 ACJ 1298** SarlaVarma and *National Insurance Company Limited Vs. Pranay Sethi*, reported in **2017 (16) SCC 680**.

10. In the absence of any positive evidence to substantiate the plea that, at the time of the accident, the rider of the two wheeler is under the influence of alcohol, the claims tribunal has rightly rejected the said plea. Secondly, as per Ex.P17, the rider of the two wheeler had valid driving license on the date of the accident and therefore, as stated supra, both the points are negatived and hence, the finding of the Claims Tribunal fixing negligence is confirmed. So also, on the point of quantum of compensation, after perusing the compensation awarded, I am of the view that it is fair and reasonable.



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11. In view of the above discussion, both the Civil Miscellaneous Appeals are devoid of merits and hence dismissed. No Costs. Consequently, the connected Civil Miscellaneous Petitions are closed.

02.03.2023

Index : Yes/No
Neutral Citation : Yes/No.
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To

The Sub Court,
Motor Accident Claims Tribunal,
Sathyamangalam.



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RMT.TEEKAA RAMAN,J.,

ars

Pre-delivery common judgment in
CMA Nos.157 and 144 of 2023

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