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C.M.A.No.1186 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1186 of 2018

And

C.M.P.No.9760 of 2018

United India Insurance Co. Ltd.,
104-A, Peramanur Main Road,
Salem – 7.

... Appellant

Vs.

1.Rajendran
2.Dhanalakshmi
3.Sivakami
4.Chandrasekaran
5.Rani
6.D.Nandhakumar

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment dated 20.11.2017 made in M.C.O.P.No.1408 of 2014 on the file of Motor Accidents Claims Tribunal, Special District Judge, Salem.

For Appellant : Mr.C.Paranthaman
For Respondents : R1 & R4 – No Appearance
Mr.M.R.Kuyilan for R2, R3 and R5
R6 – Not Ready Notice



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The second respondent Insurance Company before the Motor Accidents Claims Tribunal is the appellant herein. This appeal has been filed seeking to set aside the judgment and decree dated 20.11.2017 passed by the Motor Accidents Claims Tribunal, Special District Judge, Salem, in M.C.O.P.No.1408 of 2014.

2.The brief facts of the case is that on 13.06.2014, at about 08.00 hours, the deceased Maruthai travelled in TATA 407 bearing Registration No.TN-54-Y-7430 on the Attur – Virudhachalam Road near Sirupakkam Kaikatti. At that time, the driver of the vehicle drove the vehicle in a rash and negligent manner and lost his control, thereby, the vehicle capsized and the deceased died on the way to Hospital.

3.Thereafter, the dependants of the deceased Maruthai/ respondents 1 to 4 filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.10 Lakhs. During the pendency of M.C.O.P.No.1408 of 2014, the fifth respondent was impleaded as fifth petitioner in the M.C.O.P. After adjudication, the Motor Accidents Claims Tribunal awarded a sum of Rs.4,91,000/- with interest at the rate of 7.5% p.a. from the date of petition till the date



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of realization and costs and directed the appellant Insurance Company to deposit the compensation. Aggrieved by the same, the appellant Insurance Company has filed this appeal.

4.The learned counsel appearing for the appellant submitted that the appellant has filed this appeal questioning the liability. The learned counsel further submitted that the son of the deceased was examined as P.W.1 and he categorically deposed that the deceased travelled as gracious passenger and not as owner of the goods, however, the Tribunal arrived at a conclusion that the deceased was employed with the sixth respondent and travelled in the vehicle as owner of the provision items. The Tribunal without any pleadings and oral evidence perversely arrived at the conclusion that the deceased travelled in the vehicle as the owner of the goods and has fastened the entire liability on the appellant and awarded compensation, which is not sustainable.

5.The learned counsel appearing for the respondents 2, 3 and 5 submitted that the deceased Maruthai was employed with the sixth respondent who is running provision store. The sixth respondent hired the vehicle insured with the appellant. The deposition of R.W.2, the driver of the vehicle makes it clear that the vehicle was hired by the



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sixth respondent and the deceased was an employee under the sixth respondent. Further, the age of the deceased at the time of death was 65 years and the Tribunal rightly adopted the multiplier 7 and awarded compensation, which is just and reasonable, which warrants no interference.

6.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondents 2, 3 and 5 and perused the materials available on record.

7.Admittedly, on 13.06.2014, at about 08.00 hours, the deceased Maruthai travelled in TATA 407 on the Attur – Virudhachalam Road near Sirupakkam Kaikatti. At that time, the driver of the vehicle drove the vehicle in a rash and negligent manner and lost his control, thereby, the vehicle capsized and the deceased died on the way to Hospital.

8.Perusal of records disclose that the deceased Maruthai was employed with the sixth respondent who is running provision store. The sixth respondent hired the vehicle insured with the appellant. The deposition of R.W.2, the driver of the vehicle makes it clear that the



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vehicle was hired by the sixth respondent and the deceased was an employee under the sixth respondent. Hence, the Tribunal after considering the factual aspects has rightly fastened the liability on the appellant, which warrants no interference.

9.Further, the age of the deceased at the time of death was 65 years and the Tribunal rightly adopted the multiplier 7 and awarded compensation, which is just and reasonable. Hence, the impugned judgment needs no interference.

10.The civil miscellaneous appeal stands dismissed. The judgment and decree dated 20.11.2017 passed by the Motor Accidents Claims Tribunal, Special District Judge, Salem, in M.C.O.P.No.1408 of 2014, is confirmed.

11.The appellant/ Insurance Company is directed to deposit the entire award amount before the Tribunal within a period of four weeks from the date of receipt of a copy of this judgment, less the amount if any, already deposited. On such deposit being made, the claimants/ respondents 1 to 5 are permitted to withdraw their respective shares



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as apportioned by the Tribunal, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal.

12.The civil miscellaneous appeal is dismissed. No costs.
Consequently, the connected miscellaneous petition is closed.

01.11.2023

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
Special District Judge, Salem.

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