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IN THE HIGH COURT OF JUDICATURE AT MADRAS

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

C.M.A.No.1954 of 2018
and
C.M.P.No.15175 of 2018

Cholamandalam MS General Insurance Company Limited,
2nd Floor, Dare House,
No.2, N.S.C.Bose Road,
Chennai – 600 001.

...Appellant

Vs.

1.Jayakodi
2.Suganthi
3.Bhuvaneswari
4.Minor Venkatesh
Minor represented by Mother & NF/Guardian
1st respondent)
5.K.Subramaniam

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree made in M.C.O.P.No.2569 of 2014 dated 23.02.2017 on the file of the Motor Accident Claims Tribunal, Special District Judge, Dharmapuri.

For Appellant : Mr.N.Vijayaraghavan

For R1 to R4 : Mr.P.Valliappan

For R5 : No appearance



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J U D G M E N T

The Insurance Company is the appellant herein.

2. The respondents 1 to 4 are the claim petitioners/legal heirs of the deceased Selvam, who died due to the injuries sustained in the accident caused by the lorry, which was insured with the appellant/insurance company herein on 15.02.2014.

3. Before the Tribunal, the Insurance Company filed a counter stating that the deceased has contributed to the accident and that the accident had taken place on the corner of the road, while turning towards left side and also hit by the lorry injured with the Insurance Company.

4. In the trial, the widow of the deceased P.W.2, Jayakodi and the eye witness/S.Durai was examined as P.W.2. Ex.P1 to Ex.P15 were marked and Ex.R1 to Ex.R4 were marked. On behalf of the respondent R.W.1 is also examined.



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5. The Tribunal, on consideration of both oral and documentary evidence, has come to the conclusion that, the accident has taken place due to the rash and negligent driving of the driver of the lorry insured with the appellant/Insurance Company and Ex.R3 is the Insurance policy to demonstrate that on the date of the accident and the vehicle was duly insured with the Insurance Company. Accordingly, the tribunal held that both the respondents before the Tribunal are jointly and severally liable to pay the compensation and taking into consideration of the documents, the tribunal arrived at a conclusion that a sum of Rs.11,95,000/- was awarded as compensation. Aggrieved by the same, the present Civil Miscellaneous Appeal is filed.

6. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondents.

7. After going through the evidence of P.W.2-S.Durai and also going through the evidence of R.W.1 and Ex.R2, it appears that the Tribunal has rightly come to the conclusion by fixing the negligence on the part of the lorry and the compensation awarded by the Tribunal appears to be just and fair and therefore, there is no infirmity in the award passed by the Tribunal.



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8. Accordingly, this civil miscellaneous petition is dismissed. No costs. The compensation awarded by the tribunal is hereby confirmed. The appellant is directed to deposit the balance amount of the compensation awarded by the tribunal, within a period of eight weeks, from the date of receipt of a copy of this order, after deducting the amount already deposited by the appellant. On such deposit, the claimants/respondents 1 to 4 are permitted to withdraw their respective share amount, as apportioned by the Tribunal, on filing appropriate application. Consequently connected C.M.P is closed.

03.02.2023

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Index : Yes/No

Speaking/Non-speaking order

To

1.The Motor Accident Claims Tribunal
Special District Judge, Dharmapuri.

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



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RMT.TEEKA RAMAN, J.

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Judgment in
C.M.A.No.1954 of 2018 and
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03.02.2023