



C.M.A.No.1934 of 2004

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 16.10.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

**C.M.A.No.1934 of 2004**

**And**

**C.M.P.No.13237 of 2004**

Third Party Claims Settlement  
Officers, United India Insurance  
Company Ltd.,  
Chennai – 600 002.

... Appellant

Vs.

1.Indira  
2.Minor.Ramu  
3.Kamala  
4.Babu  
(Ex-Parte in Lower Court)

... Respondents

**Prayer:**

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 11.01.2001 made in M.C.O.P.No.188 of 1999, on the file of the Motor Accidents Claims Tribunal (Additional District Judge – Cum – Chief Judicial Magistrate) at Chengalpattu.

For Appellant : Mr.R.Ravichandra  
For Respondents : R1 to R3 – No Appearance  
R4 – Exparte



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## **J U D G M E N T**

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The second respondent Insurance Company before the Motor Accidents Claims Tribunal, is the appellant herein. This appeal has been filed against the judgment and decree dated 11.01.2001 made in M.C.O.P.No.188 of 1999, on the file of the Motor Accidents Claims Tribunal (Additional District Judge – Cum – Chief Judicial Magistrate) at Chengalpattu.

2.The brief facts of the case is that on 27.08.1991 at about 11.45 hours, the deceased Babu was travelling in an Auto Rickshaw bearing Registration No.T.S.L.7261 and the driver of the Auto drove the vehicle in a rash and negligent manner and dashed against a lorry at Thirukkazhukundram, due to which, the deceased sustained grievous injuries and was admitted in Hospital and thereafter he died.

3.Thereafter, the dependants of the deceased/ respondents 1 to 3 filed claim petition before the Motor Accidents Claims Tribunal after a lapse of eight years, claiming compensation of Rs.4,33,000/-. After adjudication, the Tribunal, awarded a sum of Rs.2,18,200/- with interest at the rate of 12% from the date of petition till the date of realization and costs and directed the appellant Insurance Company to



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pay the compensation. Aggrieved by the same, the appellant Insurance Company has filed this appeal.

4.The learned counsel appearing for the appellant submitted that as per the F.I.R., the deceased himself has driven the Auto and dashed against the lorry. Further at the time of death, the deceased did not possess valid driving licence and as per permit limit, Auto can ply within the radius of 25Km., however, the accident happened at Thirukkazhukundram, which is beyond 25 Km./ beyond the distance of permit limit. All those issues were not properly considered by the Tribunal and the Tribunal directed the Insurance Company to pay the compensation amount is not sustainable one.

5.Heard the learned counsel appearing for the appellant. Though notice has been sent, there is no representation for the respondents 1 to 3. Considering the pendency of the civil miscellaneous appeal, this Court is inclined to proceed with the case and decide the same based on the materials available on record.

6.The claimants claim that on 27.08.1991 at about 11.45 hours, the deceased Babu travelled in the Auto Rickshaw owned by the fourth



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respondent and the driver of the Auto drove the vehicle in a rash and negligent manner and dashed against a lorry, due to which, the deceased sustained grievous injuries and was admitted in Hospital and thereafter he died. Thereafter, the claimants filed claim petition and the Tribunal also awarded compensation. The appellant claim that the deceased himself has driven the Auto and dashed against the lorry.

7.Now the question arise is whether the deceased possessed valid licence to drive the Auto, whether the Auto was driven by the driver beyond the travel permit. Though such defence was taken by the appellant Insurance Corporation, the appellant has not marked any document with regard to the travel permit or driving licence and has also not examined the Motor Vehicles Inspector before the Tribunal.

8.In the absence of any evidence, the Tribunal has awarded a just and reasonable compensation, however, the Tribunal has awarded 12% interest, which in the opinion of this Court is high and hence, the interest is reduced to 7.5% from 12%. The appellant Insurance Company shall deposit the compensation amount with interest at the rate of 7.5% from the date of petition till the date of realization.



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9.The civil miscellaneous appeal is partly allowed. The decree and judgment dated 11.01.2001 made in M.C.O.P.No.188 of 1999 by the Motor Accidents Claims Tribunal (Additional District Judge – Cum – Chief Judicial Magistrate) at Chengalpattu, is modified only in respect of the interest awarded.

10.The appellant/ Insurance Company is directed to deposit the award amount with interest at the rate of 7.5% from the date of petition till the date of realization before the Motor Accidents Claims Tribunal (Additional District Judge – Cum – Chief Judicial Magistrate) at Chengalpattu, within a period of eight 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 and 3 are permitted to withdraw their respective share as apportioned by the Tribunal, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal. The second respondent is permitted to withdraw his share as apportioned by the Tribunal, along with accrued interest and proportionate costs, on making proper and necessary application before the Tribunal and on production of necessary proof with regard to his majority.



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**M.DHANDAPANI,J.**  
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11.The appellant Insurance Company is permitted to withdraw the excess amount, if any, already deposited by them along with accrued interest at the rate of 4.5% p.a.

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

**16.10.2023**

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Speaking Order/ Non Speaking Order  
Index: Yes/ No  
Internet: Yes/ No

To

1.The Motor Accidents Claims Tribunal  
(Additional District Judge – Cum – Chief Judicial Magistrate) at  
Chengalpattu.

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