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C.M.A.No.3043 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2023

C O R A M

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.3043 of 2017
and C.M.P.No.18485 of 2017

M/s.Reliance General Insurance Co.Ltd.,
Chennai.

... Appellant/ 2nd Respondent

Vs

1.Arumugam

... Respondents/Petitioner

2.Anja @ Anjalakshmi

3.T.R.Vasu

... Respondents/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 07.02.2017 made in M.C.O.P.No.170 of 2015 on the file of the Motor Accidents Claims Tribunal, III Additional District & Sessions Court, Kallakurichi.

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

For Respondents ... M/s.S.Venkidasamy [R1 & R2]
... No Appearance [R3]



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JUDGEMENT

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Aggrieved by the impugned award dated 07.02.2017 passed by the Motor Accidents Claims Tribunal, III Additional District & Sessions Court, Kallakurichi in M.C.O.P.No.170 of 2015, the present appeal has been filed by the Appellant/Insurance Company questioning the liability of the insurer.

2. Brief facts which are necessary for the disposal of the present appeal are as follows:-

On 31.1.2014, when the deceased late A.Murugan was riding the Honda Shine Bike bearing Reg No.TN-18-Q-5640 belonging to the 3rd respondent, insured with the Appellant-Insurance company, suddenly the dog crossed the road, on seeing this, the deceased lost the control of his vehicle and fell down from his bike thereby he sustained fatal injuries. Immediately after the accident, he was taken to Rajiv Gandhi Govt Hospital, Chennai where he was declared dead on arrival. Aggrieved by the death of the deceased, the Respondents/Claimants have filed a claim petition before the Motor Accidents Claims Tribunal, III Additional District & Sessions Court, Kallakurichi in M.C.O.P.No.170 of 2015 claiming compensation of Rs.15,00,000/- under



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various heads.

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3. Before the Tribunal, the 2nd claimant examined herself as P.W.1 and marked Ex.P.1 to Ex.P.5. No witnesses were examined on the side of the respondents nor any documents were marked. The Tribunal, on considering the oral and documentary evidence, awarded a sum of Rs.4,84,000/- to the Respondents/claimants and fastened the liability jointly and severally against the Appellant/Insurance Company and the 3rd respondent. Challenging the said award dated 07.02.2017, the Appellant/Insurance Company has filed this Appeal before this Court questioning the liability of the insurer.

4. Learned counsel appearing for the Appellant/Insurance Company submitted that the only ground on which the present appeal has been filed is that as per the terms and conditions of the policy taken by the 3rd respondent/ the Owner of the vehicle, the claimants are entitled for compensation only to the tune of Rs.1,00,000/-, however, the Tribunal has awarded a sum of Rs.4,84,000/- which is highly excessive. Therefore, the compensation awarded by the Tribunal requires reconsideration by this Court. Accordingly, he prayed



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for allowing this Appeal.

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5. Per contra, learned counsel appearing for the Respondents 1 & 2/Claimants submitted that when the Tribunal had accepted that the accident had occurred purely due to the negligence on the part of the driver/deceased who drove the vehicle in a rash and negligent manner which was the cause for the death of the deceased, the Tribunal after considering the oral and documentary evidences, has rightly fixed the compensation which requires no interference. Accordingly, he prayed for dismissal of this Appeal.

6. This Court heard the learned counsel appearing for the Appellant-Insurance Company as well as the Respondents 1& 2/Claimants and perused the materials available on record.

7. The issue that arises for consideration in the present appeal is whether, the deceased/driver of the vehicle is entitled to receive the compensation awarded by the Tribunal.



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8. A similar issue has already been dealt with by this Court wherein, it is held that when the owner is covered by the personal accidental cover, the person is entitled for compensation of Rs.1,00,000/-, if it is a two wheeler and for a sum of Rs.2,00,000/- if it is a four wheeler. The similar issue was considered in case of ***Ramkhiladi and Ors Vs. The United India Insurance Company and Ors*** reported in ***2020 ACJ 627***, In the said decision, the Hon'ble Apex Court held that the deceased, though not the owner of the vehicle, however, the deceased being the driver steps into the shoes of the owner of the vehicle, is entitled for compensation only to the tune of Rs.1,00,000/-.

9. In view of the aforesaid decision, the present appeal is allowed to the aforesaid extent and it is observed and held that the original claimants shall be entitled to a sum of Rs. 1,00,000/- only with interest @ 7.5 per cent per annum from the date of the claim petition till the date of realization. The Appellant/insurance company is directed to deposit the amount as awarded by this Court, along with interests and costs, as awarded by the Tribunal to the



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credit of M.C.O.P No.170 of 2015 within a period of four weeks from the date of receipt of a copy of this order, if not already deposited. On such deposit being made, the Tribunal is directed to transfer the same to the bank account of the claimants, as per the percentage of apportionment made by the Tribunal through RTGS, within a period of two weeks thereafter. Any amount, in excess of the amount awarded by this Court above, deposited by the appellant, the appellant is at liberty to withdraw the same by making appropriate application before the Tribunal. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

18.10.2023

Index : Yes / No
Speaking Order / Non-speaking order
Neutral Citation Case : Yes / No

NHS

To

1.The Motor Accident Claims Tribunal,
IV-Small Causes Court,
Chennai.

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



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