



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

C.M.A.No.3752 of 2019

and

C.M.P.No.21500 of 2019

M/s.Reliance General Insurance Company Limited,
Dhanam Towers, 1st floor,
1, Binny Main road, Tirupur Park Road.

.. Appellant

Vs.

P. Sivasubramaniam (died)
1. Geethalakshmi
2.Minor Swathi Karunambal
3.Minor Sridhar
Minors 2 and 3 rep by guardian Geethalakshmi
4.Karthickravi
5.Palaniappan

...Respondents

Prayer: These Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 05.01.2018 made in M.C.O.P.No.335 of 2012 on the file of Motor Accidents Claims Tribunal, (Sub Court) Udumalpet.

For Appellant : Mr.R.Shivnehelan

For Respondents : Mr.D.Jayasekar for R1 to R3
for Mr.Arunkumar

No appearance for R4 & R5



WEB COPY



J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the award dated 05.01.2018 made in M.C.O.P.No. 335 of 2012 on the file of Motor Accidents Claims Tribunal, (Sub Court) Udumalpet.

2. The appellant is the third respondent in M.C.O.P.No.335 of 2012 on the file of Motor Accidents Claims Tribunal, (Sub Court) Udumalpet. The respondents 1 to 3 have filed the above said claim petition claiming a sum of Rs.10,00,000/- as compensation for the death caused to the deceased who is the husband of the first respondent and father of the respondents 2 and 3 in the accident that took place on 31.05.2012.

3. The Tribunal considering the pleadings, oral and documentary evidence held that the accident occurred due to the rash and negligent driving of the fourth respondent herein. Hence, the appellant is liable to pay a sum of Rs.18,05,916.79/- as compensation to the claimants and thereafter recover the same from the respondents 4 and 5.



WEB COPY 4. Challenging the said award dated 05.01.2018 made in M.C.O.P.No.335 of 2012, the appellant/Insurance Company has come out with the present appeal.

5. The learned counsel for the appellant/Insurance Company contended that the Judgment and decree of the lower court are contrary to law, weight of evidence and probabilities of the case. He further submitted that the Tribunal has arrived at a conclusion that the driver of the insured vehicle was at negligence based on the charge sheet alone and there was no eye witness. It should have applied the principle of contributory negligence. It has failed to verify whether the driver of lorry bearing Regn.No.TN-41-S-1599 were holding effective driving license to drive the respective category of vehicles. It has erred in holding that the Insurer is liable for the compensation, though the insured failed to comply with the terms and conditoin of the insurance agreement. It has awarded excess amount under various heads which is also unsustainable in law. The total compensation amount awarded by the Tribunal is not in consensus with the facts and circumstances of the case and principles for awarding similar cases. Hence he prayed for setting aside the



Tribunal has granted excess compensation, is without merits. The Tribunal after perusing the depositions of PW1 and PW2 and examining the Ex.P1/FIR, Ex.P2/Copy of Charge sheet, Ex.P3/Wound certificate, Ex.P4/Copy of post mortem certificate, Ex.P8/Copy of Insurance Policy, Exs.P11 & P17/Medical Bills, Ex.P16/Discharge summary and Ex.P18/Scan Report has rightly and reasonably granted a sum of Rs.18,05,916.79/- to the claimants payable by the appellant with interest and costs. There is no valid material to prove the contention of the appellant. Therefore, this court do not find any error in the award passed by the Tribunal warranting interference by this Court.

9. In the result, this Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal is hereby confirmed. The appellant-Insurance Company is directed to deposit the award amount of Rs.18,05,916.79/- with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the Tribunal is directed to transfer the award amount to the bank account of the first respondent along with accrued interest through RTGS within a period of two weeks thereafter. Since the respondents 2 and 3 are



minors, their share of the award amount shall be deposited in any one of the Nationalised banks till they attain majority. The guardian of the minor respondents 2 and 3 is entitled to withdraw quarterly interest on their deposited amount. Consequently, the connected miscellaneous petition is closed. No costs.

30.03.2023

Index : Yes

Internet : Yes

gv



WEB COPY



To

1.The (Sub Court) Udumalpet.

2.The Section Officer,
VR Section,
High Court,
Madras.



WEB COPY



A.A.NAKKIRAN.,J

gv

C.M.A.No.3752 of 2019
and
C.M.P.No.21500 of 2019



WEB COPY



30.03.2023