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C.M.A.No.152 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2023

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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.152 of 2023

and

C.M.P.No.1324 of 2023

United India Insurance Company Limited,
No.144-B, Kalpana Road,
Udumalpet.

... Appellant

Vs.

1.Aarathal
W/o.Late Mahalingam

2.Velliangiri
S/o.Late Mahalingam

3.Balakrishnan
S/o.Late Mahalingam

4.Mariyathal
W/o.Manoharan
D/o.Late Mahalingam

5.Valliyathal
W/o.Palaniappan

6.Palaniappan
S/o.Nandavan
All are residing at
MGR Colony, Jothampatty Post,
Madathukulam Taluk.



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7.V.Manoharan
S/o.Venkatachalam Pillai
578, Elango Veedhi
Ariyanatchipalayam
Kaniyoor, Madathukulam Taluk.

8.K.Ramalingam,
S/o.Kandasamy
4/14-A, Elaiyamuthur,
Udumalpet Taluk.

9.S.Gnanaprakasam
S/o.Santhalingam
No.116, Ellees Nagar
Dharapuram.

10.Cholamandalam MS General
Insurance Company Limited,
Dare House, II Floor,
NSC Bose Road, Chennai 600 001.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 28.02.2013 in MCOP.No.121 of 2010 on the file of the Motor Accident Claims Tribunal (Subordinate Judge) at Udumalpet.

For Appellant : Ms.R.Sree Vidhya

J U D G M E N T

The Appeal has been filed against the Judgment and Decree dated 28.02.2013 made in MCOP.No.121 of 2010, on the file of the Motor Accident Claims Tribunal (Subordinate Judge) at Udumalpet.



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2.The Insurance Company is the Appellant herein, challenging the award passed in MCOP.No.121 of 2010, dated 28.02.2013, on the file of the Motor Accident Claims Tribunal (Subordinate Judge) at Udumalpet. For the sake of convenience, the parties are referred to as per their ranking before the trial Court.

3.Heard the learned counsel for the Insurance Company/Appellant.

4.MCOP.No.121 of 2010 was filed by the claim Petitioners 1 to 6 for the death of one Mahalingam in a road traffic accident occurred on 07.09.2009.

5.During the trial, on the side of the claim Petitioner, PW1 & PW2 were examined, Ex.P.1 to Ex.P.13 were marked and on the side of the Respondents, two witnesses were examined and no document was marked.

6.The Tribunal, after trial has taken note of Ex.P.8 and Ex.P.9/Driving license of 1st and 3rd Respondents in MCOP.No.121 of 2010, who are drivers and also taking note of Ex.P.3 & Ex.P.4 has come to the conclusion that the



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accident has taken place due to the rash and negligent driving of 1st and 3rd Respondents in MCOP.No.121 of 2010 and fixed the contributory negligence, equally on them. As the 2nd and 5th Respondents are Insurance companies of the offending vehicles, the Tribunal fixed equal liability on them.

7. Based on the oral and documentary evidences, the Tribunal awarded a sum of Rs.10,75,580/- as compensation. Aggrieved against the said finding, the 2nd Respondent/Insurance Company come before this Court by way of this Appeal.

8. The Tribunal accepted the Medical bills/Ex.P.10, Ex.P.11 & Ex.P.12 and granted the amount mentioned in the bills. Further, the Tribunal fixed the notional income at Rs.9,000/- per month and after deducting 1/3rd towards personal expenses, applied the proper multiplier of "13" by following the judgment of the Hon'ble Supreme Court in ***Sarla Verma & Others .Vs. Delhi Transport Corporation & another***, reported in ***2009 (2) TNMAC 1 (SC)***. The same are just and proper. Hence, the finding of the Tribunal regarding rash and negligence on the part of the driver of the vehicle, which was insured with the



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United India Insurance Company Limited/Appellant herein and the quantum of compensation granted by the trial Court need not warrant any interference of this Court.

9.Hence, I find that both findings rendered by the Tribunal on the point of rash and negligent driving on the part of the offending vehicles and quantum of compensation are just and proper. Therefore, there is no merit in this Appeal.

10.Accordingly, the Appeal is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

27.01.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

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RMT.TEEKAA RAMAN.J,

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To

The Presiding Officer,
Motor Accident Claims Tribunal,
Subordinate Judge, Udumalpet.

C.M.A.No.152 of 2023
and
C.M.P.No.1324 of 2023

Dated: 27.01.2023