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C.M.A.No.4278 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2023

CORAM

THE HON'BLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.4278 of 2019

AND

CMP No.24241 of 2019

M/s.United India Insurance Co. Ltd.,
Residing at 104-A, Peramanur Main Road,
Peramanur,
Salem – 7.

...Appellant

..Vs..

1.Smt.Poongodi
2.Minor B.Monika
3.Minor Harini
(Minors represented by Guardian
and mother Poongodi)
4.Smt.Lakshmi
5.K.Perumal

..Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 22.02.2017 made in M.C.O.P.No.722 of 2011 on the file of the Motor Accidents Claims Tribunal (Special District Court) Salem.

For Appellant	:	Mr.D.Bhaskaran
For Respondents 1 -4	:	No appearance
For Respondent 5	:	No appearance



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JUDGMENT

This Civil Miscellaneous Appeal has been preferred against the award and decree dated 22.02.2017 made in M.C.O.P.No.722 of 2011 on the file of the Motor Accidents Claims Tribunal (Special District Court) Salem, by the Insurance Company.

2. For the sake of convenience, the parties are called as per their ranking before the Motor Accident Claims Tribunal.

3. The first petitioner is the wife of the deceased G.Boominathan; second and third petitioners are the daughters of the deceased G.Boominathan and fourth petitioner is the mother of the deceased. They are the claimants before the Motor Accidents Claims Tribunal, Salem. According to the claimants, the deceased G.Boominathan was aged about 30 years at the time of accident which occurred on 18.02.2011, while the deceased and others were walking on the Salem – Namakkal H.H.Main Road at 05.00 hours. When he was walking near Santhiyur, Vedha Vikas Higher Secondary School, a Lorry bearing



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Registration No.TDM-7912, driven by its driver in a rash and negligent manner, hit against the deceased and others and caused the accident. Due to the accident, the deceased sustained grievous injurious on his vital parts and died on the spot itself. In connection with the accident, a case has been registered in Crime No.64/2011 under Sections 279 and 304-A IPC, on the file of Mallur Police Station, against the driver of the Lorry. At the time of accident, the deceased was a Mason and was earning a sum of Rs.7,500/- per month. Claiming compensation of a sum of Rs.9,00,000/-, the petitioners/claimants have filed a petition in MCOP.No.722 of 2011 before the Motor Accidents Claims Tribunal, Salem.

4.The first respondent is the owner of the Lorry which caused the accident.

5. The appellant / Insurance Company has submitted that the vehicle bearing Registration No.TDM-7912 is not at all involved in the accident. He further submitted that the appellant has lodged a complaint to CBCID to re-investigate the accident. The Tribunal erroneously fastened



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liability on the appellant/Insurance Company and the same has to be set aside by allowing this appeal.

6. In this case, the learned counsel for the appellant has not produced any record regarding the outcome of the CBCID investigation. Considering the facts and circumstances of the case and upon perusing the records, the Tribunal has rightly fixed liability on the second respondent to pay compensation to the petitioners and awarded an overall compensation of Rs.10,93,000/- with interest at 7.5 % p.a., from the date of petition till the date of deposit. Therefore, this Court is not inclined to interfere with the order passed by the Tribunal.

7. For the foregoing reasons, this Civil Miscellaneous Appeal is liable to be dismissed and the same is accordingly dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

Index : Yes/No

Internet : Yes/No

gv

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To

- 1.The Motor Accidents Claims Tribunal
(Special District Court)
Salem.
2. The Section Officer,
V.R.Section,
High Court, Madras.



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A.A.NAKKIRAN., J.
gv

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