



WEB COPY



CMA No.761 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.761 of 2022
and CMP No.5530 of 2022

The Manager
United India Insurance Co.Ltd,
Motor T.P.Claims
No.73, MTH Road, Ambattur
Chennai 600 053.
Now at
United India Insurance Co. Ltd.,
Motor Third Party Claims Cell
No.134, Greams Road
5th Floor, Chennai-600 006.

...Appellant

.Vs.

1.Shobana
2.Manoharan
3.Nagalakshmi

...Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act, 1988 to set aside the judgment and decree dated 19.1.2021 in M.C.O.P.No.2 of 2019 passed by the MACT No.1, Special District Court for MCOP Cases No.1 (Motor Accidents Claims Tribunal) Thiruvallur.

For Appellant : Mr.P.Sankaranarayanan

For Respondents : Mr.N.Ponraj



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JUDGMENT

The Insurance Company has filed this appeal challenging the award passed by the Special District Court for MCOP Cases No.1 (Motor Accident Claims Tribunal), Thiruvallur (for short, the Tribunal below) in M.C.O.P.No.2 of 2019, dated 19.1.2021.

2. Heard Mr.P.Sankaranarayanan, learned counsel for the appellant and Mr.N.Ponraj, learned counsel for the respondents.

3. One Mr.M.Ramesh was riding a two wheeler on 03.9.2017 at 6 PM in Tiruvallur to Redhills Main Road and hit against the Metro Water Wall, as a result of which, he sustained grievous head injuries and subsequently succumbed to the injuries.

4. The claimants, who are none other than the wife and the parents of the deceased, filed the claim petition before the Tribunal below under Section 163A of the Motor Vehicles Act, 1988, in which, the respondent filed a counter. The Tribunal below, on considering the facts and circumstances of the case and on appreciation of evidence, came to a conclusion that the Insurance Company is liable to pay a total compensation of Rs.5,00,000/- to the claimants with interest at the rate of 7.5% p.a.



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5. The Insurance Company has challenged the award passed by the Tribunal below mainly on the ground that the deceased in this case was the tort-feasor and therefore there is no question of paying any compensation to the claimants.

6. On carefully going through the award, it is seen that deceased was the owner of the vehicle and he had driven the vehicle in a rash and negligent manner and dashed on a wall resulting in head injuries. Under these circumstances, there is no question of making the Insurance Company to pay the compensation, since the deceased was the tort-feasor in this case. The law on this issue is too well settled.

7. In the light of the above discussion, the award passed by the Tribunal by fixing the compensation is liable to be interfered by this Court and accordingly, the same is hereby set aside.

8. It is seen from records that the deceased is covered under compulsory personal accident cover and he has also paid a sum of Rs.50/- under this head. In view of the same, the claimants will be entitled for the accident cover under this policy. The policy amount to which the claimants are entitled shall be paid to the claimants with interest at the rate of 7.5.% p.a from the date of filing of the petition till the date of realization. This payment shall be made within a period of four weeks from the date of receipt of copy of the order.

N. ANAND VENKATESH., J

KP



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9. In the result, this civil miscellaneous appeal is allowed in the above terms.

No costs. Consequently, connected miscellaneous petition is closed.

03.04.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
KP

To

Motor Accident Claims Tribunal
No.I, Special District Court
Thiruvallur.

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