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C.M.A.No.1304 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1304 of 2018

And

C.M.P.No.10369 of 2018

The Divisional Manager,
National Insurance Company Limited,
T.P.HUB, Officers Line,
Vellore.

... Appellant

Vs.

1.V.R.Ayshwarya Bai
2.V.M.Ganu Sah

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 23.02.2017 in M.C.O.P.No.541 of 2014 on the file of the Motor Accidents Claims Tribunal (District Judge, District Court No.II) at Kancheepuram.

For Appellant : Ms.R.Sree Vidhya
For Respondents : Mr.R.Varadhakamaraj

J U D G M E N T

The respondent before the Motor Accidents Claims Tribunal is the



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appellant herein. This appeal has been filed against the judgment and

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decree dated 23.02.2017 passed by the Motor Accidents Claims Tribunal (District Judge, District Court No.II) at Kancheepuram, in M.C.O.P.No.541 of 2014.

2.The learned counsel appearing for the appellant submitted that the deceased is the owner of the vehicle bearing Registration No.TN-09-R-2232 and the same was insured with the appellant Insurance Company and his wife Rathina Bai was one of the co-passenger. The claimants are the daughter and father of the deceased Ramesh Sah. The claimants filed claim petition before the Tribunal alleging that the deceased and his wife travelled along with family members in Toyato Qualis and they after worshiping Lord Balaji at Tirupathy were returning to Tiruttani and the said vehicle was driven by one Kandasamy Sah @ Ravi Sah in a rash and negligent manner due to which, the accident happened. After adjudication, the Tribunal awarded a sum of Rs.8,15,200/- with interest at the rate of 7.5% p.a. from the date of petition till the date of full payment is made.

3.The learned counsel appearing for the appellant further



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submitted that the deceased is the owner of the vehicle and as per the

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policy, the owner of the vehicle is entitled for Rs.2 Lakhs as fixed compensation, whereas, the Tribunal has awarded a sum of Rs.8,15,200/- as compensation, which is not sustainable one.

4.The learned counsel appearing for the respondents did not dispute the facts submitted by the learned counsel appearing for the appellant.

5.In view of the fair submission made by the learned counsel appearing for the appellant that the deceased is the owner of the vehicle and as per the policy, the owner of the vehicle is entitled for Rs.2 Lakhs as compensation, this appeal is allowed on the limited ground that the respondents are entitled to a sum of Rs.2 Lakhs as compensation.

6.The learned counsel appearing for the respondents submitted that during the pendency of this appeal, the second respondent died and there is no other legal heirs available for the deceased and hence, this Court may issue direction to the Tribunal to disburse the entire



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compensation to the first respondent.

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7.This Court holds that the respondents/ claimants are entitled to a total compensation of Rs.2,00,000/- along with interest at the rate of 7.5% p.a. from the date of petition till the date of full payment is made.

8.The civil miscellaneous appeal is allowed on the above terms. The judgment and decree dated 23.02.2017 passed by the Motor Accidents Claims Tribunal (District Judge, District Court No.II) at Kancheepuram, in M.C.O.P.No.541 of 2014, is modified to the above extent.

9.The appellant Insurance Company is directed to deposit the modified award amount before the Tribunal, after deducting 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 being made, the first respondent is permitted to withdraw the entire modified award amount with accrued interest and proportionate costs, after deducting the amount already withdrawn, if any, on making proper and necessary application before the Tribunal. Since it is



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represented that the second respondent had died during the pendency of this appeal,

the Tribunal is directed to disburse the entire modified award amount in favour of the first respondent. The appellant Insurance Company is permitted to withdraw the excess amount, if any, already deposited by them to the credit of M.C.O.P.No.541 of 2014.

10.The civil miscellaneous appeal is allowed on the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

06.11.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
(District Judge, District Court No.II)
at Kancheepuram.



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M.DHANDAPANI,J.
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