



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2024

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THE HONOURABLE MR.JUSTICE K. RAJASEKAR

C.M.A.No.2678 of 2021

The Branch Manager
United India Insurance Company Limited
Branch Office,
No.22-B, PR.Sundaram Iyer Street,
Dharmapuri 636 701.

... Appellant

Vs.

1. Minor Madan Kumar
2. V. Murugan

... Respondents

Prayer: This Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 22.01.2020 made in M.C.O.P.No.18 of 2017 on the file of the Motor Accident Claims Tribunal, Special District Court, Dharmapuri.

For Appellant : Mr.C.Paranthaman

For R1 : Mr.V.Kumaravelan

For R2 : No Appearance



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JUDGMENT

This Civil Miscellaneous Appeal is filed by the Insurance Company/2nd respondent against the judgment and decree dated 22.01.2020 made in M.C.O.P.No.18 of 2017 on the file of the Motor Accident Claims Tribunal, Special District Court, Dharmapuri.

2.The first respondent is the claimant Minor Madan Kumar represented by his mother Gangammal @ Ganga in M.C.O.P.No.18 of 2017 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Palacode. The claimant has filed the above claim petition claiming a sum of Rs.3,00,000/- as compensation for the injuries sustained by him in the accident that took place on 07.06.2016. The parties herein are referred as per their litigative status before the claims Tribunal.

3. Brief facts of the case is that:-

On 07.06.2016 the minor petitioner was travelling in the Tata Ace Vehicle bearing Registration No.TN 29 AU 2454 with the load of aluminium vessels for sale in the villages around Palacode. His mother Gangammal was



travelling along with him and both of them were seated in the front seat of the said vehicle. One Madhu was the driver. On the way to Karimangalam to Palacode road near Angalamman Koil near Thirudampallam, a motorcycle came in the opposite side and on noticing that the driver of TATA Ace vehicle veered the vehicle towards left. The driver lost control and dashed against a bridge on the left side. Due to the impact, the minor claimant sustained fracture of his left side hand and other multiple injuries. Immediately after the accident the minor petitioner was taken to Government Medical College Hospital, Dharmapuri and he was admitted on 08.06.2016 and discharged on 09.06.2016. After discharge from there, he took treatment privately at Dharmapuri itself. Even now he is undergoing treatment in periodical intervals at Dharmapuri private hospital. Accident occurred only due to the negligent driving of the TATA Ace goods vehicle TN 29 AU 2454. The said vehicle belonged to first respondent and the same was insured with second respondent. Hence the claimant claimed compensation of Rs.3,00,000/- before the Tribunal for the injuries and disability sustained by him.

4. The Tribunal considering the pleadings, oral and documentary



evidence held that the driver of the TATA Ace Vehicle belonging to the second respondent is responsible for the accident, appellant as the insurer of the Van is liable to pay the compensation to the first respondent and awarded a sum of Rs.92,000/- as compensation to the first respondent.

5. Against the said award dated 20.08.2020 made in M.C.O.P.No.18 of 2017, the appellant/Insurance Company has come out with the present appeal.

6. The learned counsel appearing for the appellant/Insurance Company contended that the Tribunal failed to note that the second respondent has violated the policy conditions by permitting to carry 2 passengers in a goods vehicle and failed to note that the second respondent wilfully violated the policy conditions and provisions of the Motor Vehicles Act. The learned counsel further submitted that the quantum of compensation awarded by the Tribunal is excessive which warrants interference.

7. Owner of the vehicle / second respondent remained exparte before the Tribunal.



8. Per contra, the learned counsel for the claimant submitted that there is ample evidence placed on record to show that the claimant has travelled in the goods vehicle as a owner of the goods and statutorily covered for getting the compensation. The Tribunal, after considering the entire materials and witnesses, rightly awarded compensation in favour of the claimant, which is just, fair and reasonable and hence, the same does not require any interference in the hands of this Court.

9. I have considered the submissions of both sides and perused the materials available on record.

10. Evidence was placed on record by examining PW1 and the claimant has stated that the minor petitioner had travelled in the vehicle along with load of aluminium vessels with his mother. Accident occurred on 07.06.2016 at 8:00 p.m. and the same has been accepted by the Tribunal. Since there is an evidence placed on record to show that claimant is the owner of the goods travelled in the vehicle as per Section 147 of the Motor Vehicles Act, the owner of the goods are authorised representatives to carry their goods in the vehicle, would statutorily cover under the policy. It is not



disputed by the respondents that the owner of the goods travelled in the vehicle is also entitled to compensation. Considering the same, this Court accepting the findings rendered by the Tribunal that the claimant has travelled in the goods vehicle not as a gratuitous passenger and she has travelled only as a owner of the goods. Accordingly, the Insurance Company is liable to indemnify the second respondent and pay compensation to the first respondent. Considering the nature of injuries sustained by the 1st respondent the Tribunal referred the minor claimant to the Medical Board and the Doctors of the Medical Board assessed the disability at 15% and compensation awarded by the Tribunal by adopting multiplier method for 15% towards disability is not interfered with by this Court. The income fixed and compensation awarded under the loss of income is proper. The amounts awarded by the Tribunal under all the other heads are just and fair and the same are hereby confirmed.

11. In the result, this Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal at Rs.92,000/- is hereby confirmed. It is represented that the appellant/Insurance Company has already deposited the entire award amount to the credit of MCOP No.18 of 2017 on the file of



the Motor Accident Claims Tribunal, Subordinate Judge, Palacode along with interest and costs. The claimant/first respondent is permitted to withdraw the award amount with accrued interest as per the apportionment fixed by the Tribunal, after adjusting the amount if any, already withdrawn. No costs.

23.02.2024
(2/2)

Index : Yes/No
Internet : Yes/No
dpq

To
1.The Subordinate Court
Palacode.

2.The Section Officer,
V.R.Section,
High Court, Chennai.



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K. RAJASEKAR, J.

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