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CMA No.2870 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CMA No.2870 of 2022

Minor Nagesh
S/o.Muniyappa
(Minor represented by her
mother and natural guardian Ammaiyamma @
Ammaiya)
No.3/5480, Alasanatham Ward No.3
Chennathur Post
Hosur Taluk
Krishnagiri District.

..Appellant/Petitioner

.Vs.

1.Thiru V.Nagaraju
2.The Manager
HDFC ERGO General Insurance Co.,Ltd.,
Leela Business Park, 6th Floor
Andheri, Kurla Road
Mumbai 400 059.

..Respondents/Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 20.6.2022 made in M.C.O.P.No.254 of 2019, on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Hosur, Krishnagiri District.

For Appellant : Mr.M.Sivakumar

For Respondents : Mr.N.Somasundar [R2]

No Appearance [R1]



CMA No.2870 of 2022

JUDGMENT

The injured claimant aggrieved by the dismissal of the claim petition filed in MCOP No.254 of 2019, on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Hosur, Krishnagiri District, by award dated 20.06.2022, has filed the present appeal before this Court.

2.Heard Mr.M.Sivakumar, learned counsel for the appellant and Mr.N.Somasundar, learned counsel for R2 Insurance Company. The name of the 1st respondent has also been printed in the cause list. However, there is no representation for the 1st respondent either in person or through counsel.

3.This Court has carefully considered the submissions made on either side and the materials available on record.

4.In the instant case, there is no denial of the fact that the claimant was a minor at the time of the accident and to top it up there were two pillion riders in the vehicle. The vehicle was involved in an accident when it dashed on the two wheeler that was driven by the 1st respondent. The claimant had sustained injuries and his disability was assessed at 40%.

5.The Tribunal had taken into consideration the judgment of this Court in **Irfan v. K.S.Kumaran and others** reported in **2022 (1) TN MAC 358** and had come to a conclusion that the claimant being minor was not eligible to even ride the



CMA No.2870 of 2022

vehicle on the road and therefore the Insurance Company cannot be burdened with the obligation of paying the compensation amount. This position of law has been followed consistently by this Court in order to ensure that the riding of the vehicle by a minor is not encouraged and if any such leniency is shown, it will only open floodgates and it will tantamount to granting premium for a patent illegality.

6.In view of the above, this Court does not find any ground to interfere with the award passed by the Tribunal.

7.In the result, the judgment and decree 20.6.2022 made in M.C.O.P.No.254 of 2019, on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Hosur, Krishnagiri District, is confirmed and this Civil Miscellaneous Appeal stands dismissed. No costs.

23.04.2024

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
KP
To
1.The Manager
HDFC ERGO General Insurance Co.,Ltd.,
Leela Business Park, 6th Floor
Andheri, Kurla Road, Mumbai 400 059.

2.Motor Accident Claims Tribunal,
Principal Subordinate Judge
Hosur, Krishnagiri District.

N. ANAND VENKATESH., J

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CMA No.2870 of 2022

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