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CMA.No.2393 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2393 of 2024 and
C.M.P. No.18992 of 2024

Reliance General Insurance Company Limited,
Motor Third Party Claims,
No.66, Haddows Road
Nungambakkam,
Chennai 600 035

... Appellant

VS.

1.G. Renuka
2. B. Nirmala
3. K. Shanthi
4. A. Jayanthi
5. T. Vedhagiri

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 30.01.2023 in M.C.O.P.4981/2018 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

For Appellant : Mr. G. Vasudevan

For R1 to R4 : Mr. L. Monish
for Mr.I. Mohan Rao



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R5 : No appearance.

JUDGMENT

The appellant, the Reliance General Insurance Company Limited, Chennai, is the second respondent in M.C.O.P.4981/2018 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai.

2. The respondents 1 to 4 filed the abovesaid claim petition under Section 166 of the Motor Vehicles Act and Rule 3 of MACT Rules seeking compensation of Rs.9,00,000/- for the death of their mother Ethirajammal in a road accident that occurred on 12.04.2015.

3. According to the claimants, on 12.04.2015, Ethirajammal (since deceased) was walking along Manampathy-Eachur Road and at about 19.00 hours, a speeding motorcycle bearing Registration Number TN-21-LO-2675 hit her as a result of which she sustained injuries all over her body. She was immediately rushed to Vijaya hospital, Chennai. However, she succumbed to injuries on 21.04.2015.



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4. According to the claimants, the rash and negligent driving of the rider of the motorcycle bearing Registration Number TN-21-LO-2675 was the cause of accident and that since the said vehicle was insured with the present appellant, the Reliance General Insurance Company Limited, Chennai, the owner and the insurer are jointly and severally liable to pay compensation to them.

5. In the Tribunal, the owner of the motorcycle remained absent and was set *exparte*. The appellant/Insurance Company resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor vehicles Act.

6. The Tribunal, after analysing the evidence on record, fastened negligence on the part of the rider of the motorcycle bearing Registration Number TN-21-LO-2675 and directed the appellant to pay compensation of Rs.6,48,500/- to the claimants together with interest at the rate of 7.5% per annum from the date of petition till the date of realisation. The Tribunal further held that the liability of the owner of the



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two wheeler and the insurance company is joint and several.

7. Aggrieved over the orders passed by the Tribunal, the present appeal is filed by the Reliance General Insurance Company Limited.

8. Heard Mr. G. Vasudevan, learned counsel appearing for the appellants and Mr.L. Monish, learned counsel appearing for the respondents 1 to 4. Though the fifth respondent, the owner of the motorcycle was served with notice and his name was also printed in the cause list, he did not appear before this Court either in person or through a counsel.

9. Mr. G. Vasudevan, learned counsel for the appellants Insurance Company contended that though the rider of the two wheeler did not possess a valid driving licence on the date of accident, the Tribunal did not give the right to recover the award amount from the owner of the vehicle after paying the same to the claimants (Pay and Recover). He therefore prayed to set aside the order of the Tribunal.

10. It is seen from the records that though the Insurance



Company issued notice to the owner of the two wheeler to produce the driving licene, he did not produce the same. A perusal of the Motor Vehicle Inspector's Report shows that the owner of the two wheeler did not produce his driving licence before the Inspector at the time of inspection of the vehicle. In the circumstances, the appellat Insurance Company is directed to pay the Award amount to the claimants in the first instance and then recover the same from the owner of the two wheeler under the same cause of action.

11. There is no dispute with regard to the quantum of compensation. A perusal of the records shows that the Tribunal has awarded just compensation to the claimants.

12. In the result,

i. The Civil Miscellaneous Appeal is partly allowed. No costs.

Consequently connected miscellaneous petition is closed.

ii. The appellat/Insurance company is directed to deposit a sum of Rs.6,48,500/- (less the amount already deposited) with interest at



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the rate of 7.5% per annum from the date of claim petition till the date of deposit, in the first instance, within a period of four weeks from the date of receipt of a copy of this order/uploading of this order, to the credit of M.C.O.P.4981/2018 on the file of the Motor Accident Claims Tribunal, III Small Causes Court, Chennai, and then recover the same from the fifth respondent, the owner of the motorcycle bearing Registration Number TN-21-LO-2675.

iii. On such deposit being made, the respondents 1 to 4 / claimants are at liberty to withdraw the same after filing a proper petition for withdrawal.

23.10.2024

Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes / No
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To

1. Motor Accident Claims Tribunal, III Small Causes Court, Chennai.
2. The Section Officer, VR Section, Madras High Court, Chennai.



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R.HEMALATHA, J.

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