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CMA NO.954 OF 2022**IN THE HIGH COURT OF JUDICATURE AT MADRAS****DATED : 26.06.2024****CORAM:****THE HON'BLE MR.JUSTICE R.SAKTHIVEL**

CMA NO.954 OF 2022
AND CMP NO.7055 OF 2022

The Branch Manager
 United India Insurance Co. Ltd.,
 Branch Office
 14/1-77B, Salem Main Road,
 Puduchampalli, Mettur Dam,
 Salem District – 636 403.

... Appellant / 2nd Respondent***Versus***

1.Jayamma	...	1 st Respondent / 1 st Petitioner
2.Ramesh	...	2 nd Respondent / 2 nd Petitioner
3.Chandrasekaran	...	3 rd Respondent / 1 st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the judgment and decree dated 11.02.2015 made in MCOP No.258 of 2008 on the file of MACT (PDJ) at Krishnagiri.

For Appellant	:	Mr.I.Malar
For Respondents 1&2	:	No appearance
For Respondent 3	:	<i>Ex-parte</i>

J U D G M E N T



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Feeling aggrieved with the Award dated February 11, 2015 passed by the Motor Accident Claims Tribunal (Principal District Court), Krishnagiri in M.C.O.P.No.258 of 2008, the second respondent / Insurance Company preferred this Civil Miscellaneous Appeal.

2.For the sake of convenience, the parties herein will be referred to as per their rank in the Motor Claim Original Petition.

3.The case of the petitioners is that on July 11, 2007 at about 06.50 p.m., the deceased Pappiah was walking through Post Office Road, Barigal Town. At that time, a Lorry bearing Registration No.KA01-5495 belonging to the first respondent, hit Pappiah and caused injuries. Due to the injuries, Pappiah died on the spot. First petitioner is the wife and second petitioner is the daughter of the deceased Pappiah. According to the petitioners, the deceased earned a monthly income of Rs.6,000/- in Banana wholesale business. Accordingly, they filed a Motor Claim Original Petition before the Motor Accident Claims Tribunal, Krishnagiri, seeking compensation of a sum of Rs.5,00,000/- (Rupees Five Lakhs Only).

4.The first respondent, who is the owner of the Lorry, remained



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ex-parte before the Tribunal.

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5.The second respondent/Insurance Company filed a counter stating that the accident occurred due to the negligent act of the deceased Pappiah. The deceased Pappiah crossed the road suddenly without hearing the horn blown by the Driver of the first respondent's Lorry. At the time of accident, the deceased Pappiah was 70 years old and deaf and dumb. Accordingly, the second respondent / Insurance Company prayed to dismiss the petition.

6.At trial, on the side of the petitioners, the first petitioner was examined as P.W.1 and one Seenappa was examined as P.W.2 and Ex-P.1 to Ex-P.5 were marked. On the side of the second respondent, one Mr.Ravi was examined as R.W.1 and Ex-R.1 was marked.

7.The Tribunal after considering the evidence available on record, found that the accident occurred due to the rash and negligent driving of the Driver of the first respondent's Lorry. At the time of accident, the Lorry



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which caused accident was insured with the second respondent / Insurance Company. Accordingly, the Tribunal held that the respondents are liable to pay a sum of Rs.1,62,500/- (Rupees One Lakh Sixty Two Thousand Five Hundred Only) to the petitioners as compensation.

8.Challenging the quantum of compensation, the second respondent / Insurance Company preferred this Civil Miscellaneous Appeal.

9.Learned counsel for the appellant / Insurance Company has submitted that at the time of accident, the deceased was 70 years old; that the petitioners did not file Legal Heirship Certificate of the deceased Pappiah; that the first petitioner is the second wife of the deceased and the second petitioner is the son of the deceased born through the first petitioner; that the deceased had first wife and through her, the deceased has four children. The petitioners did not produce the Legal Heirship Certificate. Hence, the petition deserves to be dismissed. Accordingly, the learned counsel prayed to allow this Civil Miscellaneous Appeal.

10.This Court has considered the submissions made by the



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learned counsel for the appellant and perused the materials available on record.

11. There is no dispute with regard to the manner of accident and the liability of the respondents. The only grievance of the appellant is that the deceased had first wife through whom, he has four children. In this regard, the Tribunal, in para 14 of its Award has held that the first petitioner, as a wife of the deceased is entitled to Rs.1,00,000/- and the remaining award amount of Rs.62,500/- shall have to be apportioned, on production of the Legal Heirship Certificate of the deceased Pappiah.

12. As far as the Motor Accident Claim is concerned, the 'dependant(s)' of the deceased are entitled to claim compensation. In this case, the accident occurred in the year 2007. Except the petitioners, none has come forward seeking compensation from the respondents. In these circumstances, the apprehension of the appellant does not have merit consideration. However, the Tribunal in its Award, has safeguarded the interest of the other legal heirs if any of the deceased also.

13. In such circumstances, the appellant may not have any grievances over the Award passed by the Tribunal. There is no merit in this



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Civil Miscellaneous Appeal and accordingly, the same stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

26.06.2024

Index : Yes
Internet : Yes
Neutral Citation : No
Speaking Order
TK

To

The Principal District Judge
Motor Accident Claims Tribunal
Krishnagiri.



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R.SAKTHIVEL, J.

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