



C.M.A.Nos.2150 of 2023 and 2641 of 2024
and C.M.P.No.21025 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.Nos.2150 of 2023 and 2641 of 2024
and
C.M.P.No.21025 of 2024

C.M.A.No.2150 of 2023

The Divisional Manager,
United India Insurance Company Limited,
No.46, Katpadi Salai, Vellore.

... Appellant

Vs.

1. Pachiyappan

2. Sivakami

3. Ramesh

4. The Divisional Manager,
Iffco Tokio General Insurance Company Limited,
No.145, 131, Ground Floor,
Nelson Manickam Road,
Medha Nagar, Chennai.

5. Venkatraman

... Respondents

C.M.A.No.2641 of 2024

The Divisional Manager,
United India Insurance Company Limited,
No.46, Katpadi Salai, Vellore.

... Appellant



C.M.A.Nos.2150 of 2023 and 2641 of 2024
and C.M.P.No.21025 of 2024

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Vs.

1. Minor. Arivoli
(minor represented by his mother
and natural guardian Sivakami)

2. Ramesh

3. The Divisional Manager,
Iffco Tokio General Insurance Company Limited,
No.145, 131, Ground Floor,
Nelson Manickam Road,
Medha Nagar, Chennai.

4. Venkatraman

... Respondents

Prayer in C.M.A.No.2150 of 2023 : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 16.09.2016 in M.C.O.P.468 of 2011 (Old No.712 of 2009) on the file of the Motor Accident Claims Tribunal, Principal Sub Court, Tiruvannamalai.

Prayer in C.M.A.No.2641 of 2024 : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 16.09.2016 in M.C.O.P.469 of 2011 (Old No.713 of 2009) on the file of the Motor Accident Claims Tribunal, Principal Sub Court, Tiruvannamalai.

In C.M.A.No.2150 of 2023

For Appellant	: Ms.I.Malar
For RR1 and 2	: Mr.Amar D.Pandiya for Mr.B.Jawahar
For RR3 and 5	: No appearance
For R4	: Mr.J.Michael Visuvasam



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In C.M.A.No.2641 of 2024

For Appellant	: Ms.I.Malar
For R1	: Mr.Amar D.Pandiya for Mr.B.Jawahar
For RR2 and 4	: No appearance
For R3	: Mr.J.Michael Visuvasam

COMMON JUDGMENT

The appellant, the United India Insurance Company Limited, Vellore is the fourth respondent in M.C.O.P. No.468 and 469 of 2011 on the file of the Motor Accident Claims Tribunal, Tiruvannamalai.

2. The respondents 1 and 2 in C.M.A.No.2150 of 2023 are the claimants in M.C.O.P.468 of 2011 on the file of the Motor Accident Claims Tribunal, Tiruvannamalai. They filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.10,00,000/- for the death of their son Naveen Prasanth @ Prasanth, in a road accident that took place on 27.03.2009.



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2.1. The first respondent in C.M.A.No.2641 of 2024 is the claimant in M.C.O.P.469 of 2011 on the file of the Motor Accident Claims Tribunal, Tiruvannamalai. He is a minor aged 14 years represented by his guardian and next friend Sivakami. The claim petition was filed under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.5,00,000/- for the injuries sustained by him, in a road accident that took place on 27.03.2009.

3. The case of the claimants in a nutshell is as follows:

On 27.03.2009, Naveen Prasanth @ Prasanth (since deceased) was on a bicycle peddled by his brother Arivoli and they were proceeding towards Nedugampoondi. At about 4.30 p.m., a speeding tractor bearing Registration Number TN-25-K-5148 attached with a trailer bearing Registration Number TN-25-K-9569 hit the bicycle, causing instantaneous death of Naveen Prasanth @ Prasanth and Arivoli was immediately rushed to Government Hospital, Chengam.



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4. According to the claimants, the rash and negligent driving of the driver of the tractor bearing Registration Number TN-25-K-5148 attached with the trailer bearing Registration Number TN-25-K-9569 was the cause of the accident and that since the tractor and trailer were insured with the United India Insurance Company Limited and Iffco Tokio General Insurance Company Limited respectively, the owners and their respective insurers are jointly and severally liable to pay compensation to them.

5. In the Tribunal the owners of the tractor and trailer remained absent and were set *ex parte*. The Insurance Companies resisted the claim petition by filing their counter affidavit before the Tribunal.

6. The Tribunal, vide its orders dated 16.09.2016, fastened negligence on the part of the driver of the tractor and trailer bearing Registration Number TN-25-K-5148 and TN-25-K-9569 in the ratio 50:50 and directed the present appellant, the United India Insurance Company and the Iffco Tokio General Insurance Company Limited to pay compensation of Rs.3,65,000/- for the death of Naveen Prasanth and Rs.20,000/- for the injuries



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sustained by Minor. Arivoli together with interest at the rate of 7.5% per annum from the date of the petition till the date of realisation. Since the driver of the tractor-trailer did not have a valid driving licence on the date of accident, the Tribunal directed both the Insurance Companies to pay the award amount in the first instance and then recover the same from the owners of the vehicles on the same cause of action (Pay and Recover).

7. Aggrieved over the orders passed by the Tribunal, the present appeals have been filed by the appellant, the United India Insurance Company Limited.

8. Heard Ms.I.Malar, learned counsel for the United India Insurance Company Limited, Mr.Amar D.Pandiya, learned counsel for the claimants and Mr.J.Michael Visuvasam, learned counsel for the Iffco Tokio General Insurance Company Limited.

9. The main contention of the appellant, the United India Insurance Company Limited is that the Tribunal had wrongly fixed composite negligence in the ratio 50:50, eventhough, the tractor alone hit the bicycle. This contention



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cannot be accepted for the simple reason that the trailer was attached to the tractor. Moreover, the eyewitness account is also clear as to the manner of accident. In the instant case, when the tractor-trailer were used together the inescapable conclusion that can be drawn is that the accident had happened because of the use of both the vehicles, the tractor and the trailer. Hence, the owners of the tractor and the trailer and their respective insurers are jointly and severally liable to pay compensation to the claimants.

10. In the result,

- i. The Civil Miscellaneous Appeals are dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.
- ii. The Award passed in M.C.O.P.468 and 469 of 2011 dated 16.09.2016 by the Motor Accident Claims Tribunal, Principal Sub Court, Tiruvannamalai, is upheld.

30.09.2024

Index : Yes/No

Speaking/Non-speaking order

mtl



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To

1.The Motor Accidents Claims Tribunal,
Principal Sub Court, Tiruvannamalai.

2.The Divisional Manager,
Iffco Tokio General Insurance Company Limited,
No.145, 131, Ground Floor,
Nelson Manickam Road,
Medha Nagar, Chennai.

3.The Section Officer, VR Section, Madras High Court, Chennai.



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R.HEMALATHA, J.

mtl

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