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C.M.A.No.3355 of 2021
and
C.M.P.No.19202 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2024

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THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3355 of 2021

and

C.M.P.No.19202 of 2021

The Branch Manager
United India Insurance Co. Ltd.,
Branch Office, Opp. To Vasan Eye Hospital
Dharmapuri City, Dharmapuri District

... Appellant

..Vs..

1.Chinnakannu
2.Kalaiselvi
3.Muthulakshmi
4.Mohan
5.Perumal
6.The Branch Manager
The New India Assurance Company Limited
Branch Office No.39-C, Bye Pass Road
Dharmapuri-701.

7.Anbarasan

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 06.04.2018 made in MCOP No.1921 of 2014, on the file of the Motor Accident Claims Tribunal



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(Special District Judge) at Dharmapuri.

For Appellant : Ms.J.V.Sandhiya Priyadharshini
For M/s.C.Paranthaman

For Respondents : Mr.J.Chandran for R6

J U D G M E N T

This appeal has been filed by the Insurance Company questioning the contributory negligence fixed on the driver of a vehicle insured with the appellant. The Tribunal has fixed the contributory negligence on the part of the driver of the vehicle insured with the appellant at 25%.

2. The respondents 1 to 5 and 7 have been duly served with the notice in the appeal and their names have also been printed in the cause list today.

3. The respondents no.1 to 4 are the claimants. The deceased Munusamy died as a result of an accident that happened on 25.08.2013 involving a vehicle insured with the appellant and another vehicle insured



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with the sixth respondent. The vehicle insured with the appellant is a two wheeler, whereas the vehicle insured with the sixth respondent is a lorry. The FIR was registered against the lorry insured with the second respondent as seen from the FIR. Munusamy is a rider of a two wheeler which had overtaken the lorry insured with the sixth respondent and had colluded with a two wheeler insured with the appellant which was coming from the opposite direction. As a result of the said accident, he died on the spot. The respondents no.1 to 4 are the legal representatives of the deceased Munusamy and they are the claimants.

4. Based on the evidence available on record, the Tribunal has fixed contributory negligence on the part of the driver of the lorry insured with the sixth respondent at 50% and fixed contributory negligence on the part of the rider of the vehicle insured with the appellant at 25%. The Tribunal has also fixed contributory negligence on the part of the deceased who was a rider of the two wheeler at 25%. As seen from the evidence available on record, the appellant/Insurance Company has not produced any contra



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evidence to prove that the rider of the two wheeler insured with them did not ride the two wheeler in a rash and negligent manner. Based on preponderance of probability, after giving due consideration to the cause of the accident, the Tribunal has come to the right conclusion that all three of them namely, the rider of the two wheeler insured with the appellant, the driver of the lorry insured with the sixth respondent and the deceased were responsible for the cause of the accident and fixed their contributory negligence at 25%, 50% and 25% respectively. This Court does not find any infirmity to the findings of the Tribunal. The appellant/Insurance Company has also not questioned the quantum of compensation awarded by the Tribunal, but has only questioned the ratio of contributory negligence fixed by the Tribunal.

5. For the foregoing reasons, there is no merit in this appeal. Accordingly, this appeal is dismissed. Both the Appellant Insurance Company and the 6th Respondent Insurance Company are directed to deposit their respective share of award amount together with interest from



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the date of claim till the date of deposit and costs as assessed by the Tribunal after deducting the amount already deposited, if any to the credit of MCOP.No.1921 of 2014 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the respective shares of award amount along with accrued interest to the bank accounts of the respondents 1 to 4 /claimants through RTGS within a period of two weeks thereafter. Consequently, connected miscellaneous petition is closed. No costs.

08.04.2024

Index: Yes/No
Internet: Yes/No
Speaking/Non-speaking order

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To

1.The Motor Accident Claims Tribunal/
Special District Judge, Dharmapuri.

1.The Section Officer
V.R.Section, High Court of Madras.

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ABDUL QUDDHOSE, J.

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