C.M.A.No.4621 of 2019

M.DHANDAPANI, J.

This matter is listed under the caption "For Being Mentioned" at the instance of the Court.

2. It is brought to the notice of this Court that though the minors in C.M.A.No.4624 of 2019 have been declared as major, however the minors in C.M.A.No.4621 of 2019 were not declared as major.

3. After perusing the judgement dated 10.12.2024, this Court is satisfied and accordingly, paragraph No.7.1 is added after paragraph No.7 of the judgment as under :-

> *"7.1. When the claim petition was filed in the year 2016, the respondents 6 to 8 were aged about 17, 15 and 11 years. Now, they should be aged about 26, 24 and 20 years and are therefore, major. Though no application has been taken out to declare them as major, this Court suo motu takes into account the age given in the claim petition and also taking into account the efflux of time, declares the respondents 6 to 8 as major and discharges their mother Sangeethamala from the guardianship. The Registry shall carry out the necessary amendments."*

M.DHANDAPANI, J.

sp

4. Registry is directed to carry out the necessary correction as aforesaid in the judgment dated 10.12.2024 made in C.M.A.No.4621 of 2019 and also in the cause title and issue fresh copy of the order to the parties.

18.07.2025

sp (½)

C.M.A.No.4621 of 2019

(½)

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

C.M.A.No.4621 of 2019
and
C.M.P.No.26177 of 2019

United India Insurance Company Ltd.,
represented by its Divisional Manager,
Katpadi Road, Vellore. ... Appellant

Vs.

1.Gandhi
2.M.Chandran (Died)

3.Royal Sundaram Alliance Insurance Company Limited,
Represented by its Branch Manager,
situated at No.5, R.J.Plaza, Katpadi Main Road,
Virudampet, Vellore – 632 006.

4.Easther
5.Sangeethamala
6.Minor. Priya
7.Minor. Abitha
8.Minor. Muralidharan
(Minors represented by their NF/Mother Sangeethamala)
... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award dated 03.12.2016 made in

M.C.O.P.No.18 of 2016 on the file of the Motor Accidents Claims Tribunal (Special Sub Judge), Tiruvannamalai.

For Appellant : Mr.D.Bhaskaran

For Respondents : Ms.A.Deepthi [R1, R5 to R8]
Died [R2]
Mr.G.Vasudevan [R3]
Notice dispensed with vide order dt. 28.11.2024 [R4]

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JUDGMENT

The Insurance Company has filed the above appeal challenging the award passed by the Motor Accidents Claims Tribunal (Special Sub Judge), Tiruvannamalai in M.C.O.P.No.18 of 2016, dated 03.12.2016, whereby, the Tribunal has fastened the liability on the appellant to pay the compensation to the 1st respondent/claimant, who is the victim in the accident occurred on 21.07.2011.

2. The facts leading to the filing of the present appeal is as follows:

On 21.07.2011 at about 9.00 p.m., the claimant as a loadman travelled along with the owner of the goods, namely K.Raji @ Raja in the

Eicher van bearing Regn.No.TN-25-H-3060 from Kilpennathur Village to Chennai. When the said van proceeding near Maduravayal Bye-pass near Tambaram, a van bearing Regn.No.TN-74-A-4074 was parked in the middle of the road without any display or signal. Due to this, the driver of Eicher van, namely Chandran had dashed against the stationed van, thereby, the claimant sustained injuries on his lip, chest, ankle and all over the body. Therefore, the claimant had filed a claim petition before the Tribunal in M.C.O.P.No.18 of 2016 claiming a sum of Rs.3,00,000/- as compensation for the injuries sustained by him in the road accident.

3. Before the Tribunal, the claimant examined two witnesses P.W.1 and P.W.2 and marked 9 documents viz., Ex.P.1 to Ex.P.9. On the side of the Insurance Company, they have examined 4 witnesses viz., R.W.1 to R.W.4 and marked 6 documents viz., Ex.R.1 to Ex.R.6. After adjudication, the Tribunal had partly allowed the petition and awarded a sum of Rs.30,000/- as compensation, directing the appellant/insurance company to pay the entire compensation and thereafter, recover 25% of the compensation from Royal Sundaram Alliance Insurance Company

Limited/3rd respondent herein. Challenging the liability fastened against the appellant, the present appeal has been filed.

4. Learned counsel appearing for the appellant/insurance company submitted that, the Tribunal erred in fixing 25% liability on the 3rd respondent/Royal Sundaram Insurance Co. and 75% on the appellant and also erred in directing the appellant to pay the entire compensation to the 1st respondent/claimant and recover 25% from the 3rd respondent. Further, he submitted that the Tribunal ought to have held that the driver of the Eicher van alone was the tort-feasor and the 1st respondent/claimant is not entitled to claim compensation against the appellant. Accordingly, he prays for allowing this appeal.

5. Per contra, learned counsel appearing for the 3rd respondent submitted that, by considering all the materials available on record, the Tribunal has rightly fastened 75% negligence on the driver of the vehicle insured with the appellant and 25% on the driver of the vehicle insured with the 3rd respondent and rightly directed the appellant to pay the entire compensation to the 1st respondent/claimant and recover 25% of the

compensation amount from the 3rd respondent, which cannot be interfered with. Accordingly, he prays for dismissal of the appeal.

6. Heard the learned counsel for the parties and also perused the materials available on record.

7. It is claimed by the 1st respondent/claimant that at the time of accident, he was working as a load man and earning a sum of Rs.250/- per day. He is one of the occupant of the fateful vehicle. Though the 1st respondent/claimant had sought for compensation for a sum of Rs.3,00,000/-, the Tribunal has awarded a sum of Rs.30,000/-, by taking into consideration the report received from the Medical Board viz., Ex.P.8, wherein it is stated that the claimant had suffered no disability. However, considering the injuries, the Tribunal has awarded Rs.30,000/- as compensation. It is to be noted that the claimant has not filed by cross objection and the claimant himself is satisfied with the award and the award is also very meagre. Moreover, the Tribunal has fixed 25% negligence on the part of the driver of the Eicher van insured with the 3rd respondent and 75% on the stationary van insured with the appellant.

Further, the Tribunal has given permission to the appellant to recover 25% of the compensation amount, which would come around Rs.7,500/- from the 3rd respondent/Royal Sundaram Alliance Insurance Company. This Court does not find any infirmity either in the findings or the compensation awarded by the Tribunal, and hence, this appeal is liable to be dismissed.

8. Accordingly, the Civil Miscellaneous Appeal is dismissed, confirming the impugned award passed by the Motor Accident Claims Tribunal (Special Sub Judge), Tiruvannamalai in M.C.O.P.No.18 of 2016, dated 03.12.2016. The Appellant-Insurance Company is directed to deposit the award amount to the credit of M.C.O.P.No.18 of 2016 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of two (2) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the same directly to bank account of the 1st respondent/claimant, through RTGS within a period of two (2) weeks thereafter. Further, the appellant is at liberty to recover

25% compensation amount from the 3rd respondent as ordered by the Tribunal. No costs. Consequently, the connected civil miscellaneous petition is closed.

10.12.2024

Index : Yes / No (1/3)
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp

To

The Motor Accidents Claims Tribunal (Special Sub Judge), Tiruvannamalai.

M.DHANDAPANI, J.,

sp

C.M.A.No.4621 of 2019

10.12.2024
(1/3)