



S.A.(MD).No.371 of 2022

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THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2024

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

C.M.A.(MD)No.371 of 2022

and

C.M.P(MD)Nos. 3326 of 2022 & 8800 of 2023

The Branch Manager,
United India Insurance Company Limited,
Micro Office,
Syndicate Bank Up Stairs,
Pallipalayam,
Sangiri Bye Pass Road,
Namakkal District.

... Appellant

/Vs./

1. Gnanasekar

2. Kandasamy

...Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the award dated 26.02.2021 made in M.C.O.P.No.1 of 2018 on the file of the Motor Accidents Claims Tribunal/Sub Court, Veda sandur and allow the above Civil Miscellaneous Appeal.

For Appellant : Mr.A.Shajahan

For R-1 : M/s.A.Arul Jenifer

R-2 : Exparte



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JUDGMENT

The Insurance Company has preferred this appeal against the award passed in M.C.O.P.No.1 of 2018, dated 26.02.2021 on the file of the Motor Accidents Claims Tribunal/Sub Court, Veda sandur.

2. It is a case of fatal. The contention of the Insurance Company is that at the time of accident, the driver was possessing license to drive Light Motor Vehicle only. But the driver has driven Tarsus lorry, which comes under the category of Heavy Goods vehicle. Therefore, it ought to be considered that the driver is not having license. But the said contention of the Insurance Company was refuted by the claimants and submitted that the Heavy Vehicle until 7500/- kg ought to be considered as Light Vehicle. Further submitted that the National Permit for Goods Carrier to Tarsus Lorry, which was issued by the Transport Department has stated in Column-5, the load capacity of the Tarsus lorry is 8905 Kgs, which means the vehicle is capable of loading 8905 Kgs, which is on the broader line. Therefore, this Court is fixing liability on both the Insurance Company and owner of the vehicle and the Insurance



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Company shall pay the full compensation but shall recover 50% of the compensation from the owner of the vehicle.

3. The Tribunal has granted to the tune of Rs.Rs.3,50,010/- as, compensation with 7.5% interest along with Costs, from the date of filing of the claim petition till the date of realization.

4. Accordingly, this Civil Miscellaneous is partly allowed. The Insurance Company is directed to deposit the entire compensation amount of Rs.3,50,010/- with 7.5 interest along with costs, within a period of 8 weeks from the date of receipt of a copy of the Order, if not deposited. Out of which, the Insurance Company shall recover 50% from the owner of the vehicle. On such deposit, the claimant is permitted to withdraw, if not withdrawn. No Costs. Consequently, connected miscellaneous petitions are closed.

28.02.2024

Index : Yes / No
NCC : Yes / No

KSA



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TO:

1. The Motor Accidents Claims Tribunal/
Sub Court,
Vedasandur.
3. The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

KSA

Judgment made in
C.M.A.(MD)No.371 of 2022

28.02.2024