



C.M.A(MD)Nos.272 and 371 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)Nos.272 and 371 of 2021

and

C.M.P.(MD)No.2262 of 2021

C.M.A(MD)No.272 of 2021:

United India Insurance Company,
Through its Branch Manager Office,
No.19/1, First Floor,
Kalpana Complex Cantonment,
Birds Road, Trichy.

... Appellant

Vs.

1.Swamynathan
2.Latha
3.Minor Uthra
4.Suresh Thurai

... Respondents

*(Minor 3rd respondent represented through
her Father and Next Guardian 1st respondent)*

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, 1988, against the order and decree, dated 01.08.2019, passed in M.C.O.P.No.68 of 2016, on the file of the Motor Accident Claims Tribunal (Principal Sub Court), Tirunelveli.

For Appellant	: Mr.A.Shajahan
For R1 to R3	: Mr.T.Selva Kumar
R3 Minor	: Represented by R1
For R4	: Mr.R.Karunanidhi



C.M.A(MD)Nos.272 and 371 of 2021

C.M.A(MD)No.371 of 2021:

- 1.Swamynathan
2.Latha
3.Minor.Uthra

... Appellants

***(Minor 3rd appellant through her Father
and Next Guardian 1st appellant)***

Vs.

- 1.Suresh Thurai Kumar

2.United India Insurance Company Limited,
Through its Branch Manager,
Office Number 19/1, First Floor,
Kalpana Complex Cantonment,
Birds Road, Trichy.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, 1988, against the judgment and decree, dated 01.08.2019, passed in M.C.O.P.No.68 of 2016, on the file of the Motor Accident Claims Tribunal (Principal Subordinate Judge), Tirunelveli.

For Appellants : Mr.T.Selvakumaran
For R1 : Mr.R.Karunanidhi
For R2 : Mr.A.Shajahan

JUDGMENT

The Insurance Company has preferred the Civil Miscellaneous Appeal in C.M.A.(MD)No.272 of 2021 and the claimants have also preferred the Civil Miscellaneous Appeal in C.M.A.(MD)No.371 of 2021.



2. The nature of accident as narrated is that the twelve years old boy while riding bicycle was hit by a two-wheeler and the boy fell on the ground and sustained head injuries, went into coma and finally succumbed to the injuries. The nature was so cruel to the parents of the boy. The negligence is fixed on the person who was riding the two-wheeler bike.

3. The vehement contention of the two-wheeler driver is that he did not hit the cycle at all. He saw the crowd standing on the road, he stopped his bike to help the small boy who had sustained injuries which was the consistent stand on the two-wheeler. This was corroborated by the evidence stated by an eye witness wherein the eye witness had stated that the bike was not damaged at all. But disbelieving the contention the Tribunal had taken the nature of accident into consideration and has awarded Rs.8,68,674/- with 7.5% interest per annum.

4. Since both the Insurance Company as well as the claimants have filed the appeals, after hearing the arguments of both sides and perusing the records, this Court is not inclined to entertain both the appeals. Hence, the Civil Miscellaneous Appeals are dismissed. No costs. Consequently, connected miscellaneous petition is closed.



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5. The Insurance Company is directed to deposit Rs.8,68,674/- with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the major claimants are permitted to withdraw their shares with proportionate accrued interests and costs in the ratio fixed by the Tribunal, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal. The Tribunal is directed to deposit the share of the minor child in a nationalized bank until the child attains majority. The first claimant, who is the father/guardian, is permitted to withdraw the interest amount once in three months. Once the minor claimant attains majority, the claimant shall withdraw the amount by filing appropriate application before the Tribunal.

22.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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- 1.Motor Accident Claims Tribunal
(Principal Sub Court), Tirunelveli.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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