



C.M.A(MD)No.269 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.269 of 2022

and

C.M.P.(MD)Nos.2535 and 7916 of 2022

The Branch Manager,
United India Insurance Company Limited,
No.74V, Salai Road,
Trichi -18.

... Appellant

Vs.

1.Mallika
2.Deepa
3.K.M.G.Muthusamy
4.T.J.G.Samuvel

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, challenging the judgment and decree, dated 02.08.2021, passed in M.C.O.P.No.268 of 2013, on the file of the by the Motor Accident Claims Tribunal and Additional District Court, Pudukkottai.

For Appellant	: Mr.I.Suthakaran
For R1&R2	: Mr.N.Balakrishnan
For R3	: No appearance
For R4	: Mr.V.Illanchezian



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JUDGMENT

This Civil Miscellaneous Appeal is preferred by the Insurance Company.

2.It is a case of fatal. The contention of the Insurance Company is that the deceased has borrowed the car from his son and was driving in a rash and negligent manner, in order to reach the Court and had hit the car on the tree. Hence, the contention of the Insurance Company is that the claim of the wife and daughter of the deceased cannot be entertained since the father of the owner had committed the accident.

3. Moreover, the Policy is only Act Policy and the deceased cannot be considered as 3rd party or a Driver. At the most he can be treated as if he is stepping into the shoes of the owner. When the owner is eligible, the same will be applicable to the deceased as well. However, this aspect was not taken by the Tribunal. The Tribunal has mistakenly treated the deceased as a third party and granted the compensation by applying the multiplier method which is applicable to third party. The relationship between the deceased and the owner of the car is accepted by the parties. The Insurance Company has also deposed before the



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Tribunal. It is categorically stated that the policy is paid for Act Policy alone. In such circumstances, the deceased is entitled to compensation as if he is the owner of the vehicle.

4. Therefore, this Court is of the considered opinion that the Tribunal has erred by not taking the fact that the owner and the deceased are father and son. Hence, the deceased is entitled to compensation as applicable under the Act policy alone, ie., Rs.2,00,000/-. This Court is reducing the compensation granted by the Tribunal from Rs.13,72,000/- to Rs.2,00,000/-.

5. The learned Counsel appearing for the Insurance Company vehemently opposed for fixing the interest for the compensation amount but this Court is of the considered opinion that when the liability is fixed under the Act policy, the Insurance Company ought to have discharged the liability immediately. If not discharged, the same would carry interest. Since it is a case of death, this Court is inclined to fix the interest at the rate of 12% per annum from the date of filing the petition until the payment. The rate of interest of 12% per annum is fixed based on the peculiar facts and circumstances. Hence, this judgment cannot be referred as precedent in any other case.



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6. The appellant is directed to deposit Rs.2,00,000/- with interest at the rate of 12% per annum from the date of filing the petition until the date of payment 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 eight weeks from the date of receipt of a copy of this judgment. On such deposit, the 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.

7. With the above said observation, the Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

15.02.2024

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

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To

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- 1.Motor Accident Claims Tribunal/
Additional District Court,
Pudukkottai.

- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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