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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.02.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No. 350 of 2022

M/s.National Insurance Company Limited,
Through its Divisional Manager,
T.S.No.4132,East Main Street,
Pudukottai.

... Appellant

Vs.

1. Nachammai

2. Minor.Santhosh

3. Minor.Siva

4. Satya

... Respondents

[The respondents 2 & 3 are represented by their mother and next guardian 1st petitioner].

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the Judgment and Decree, dated 22.11.2021 passed in MCOP.No.494 of 2016 on the file of MACT/ Additional District and Sessions Court, Pudukottai.

For Appellant : M/s.P.Malini

For R-1 to R-3 : Mr.K.C.Maniyarasu

For R-4 : No appearance



JUDGEMENT

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The Insurance Company has preferred this Civil Miscellaneous Appeal against the Judgment and Decree, dated 22.11.2021 in MCOP.No.494 of 2016 on the file of the MACT/Additional District and Sessions Court, Pudukottai.

2. It is a case of fatal. The contention of the Insurance Company is that the accident was occurred due to the negligence of the deceased and the case would come under the “personal accident claim”, consequently the regular compensation is not applicable.

3. In the present case it is an admitted fact that the accident occurred due to negligence of the deceased. In such circumstances the claim would come under personal accident claim and the Insurance company is liable to pay a sum of Rs.1 Lakh to the family of the deceased. Therefore, the impugned order passed by the Tribunal is erroneous and the same is liable to be set aside. Accordingly, the award dated 22.11.2021 passed in MCOP.No.494 of 2016 on the file of MACT/ Additional District and Sessions Court, Pudukottai, is hereby set aside. However, the Appellant/insurance company is directed to deposit a sum of Rs.1 Lakh to the claimant along with 7.5 % interest and Costs, from the date of petition till the date of realization, within a period of Eight



weeks from the date of receipt of a copy of the Order. On such deposit, the 1st claimant is permitted to withdraw the same.

4. With these modifications, this Civil Miscellaneous Appeal is partly allowed. No Costs.

07.02.2024

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

To

1. The MACT/ Additional District and Sessions Court,
Pudukottai.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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Order made in
C.M.A(MD)No. 350 of 2022

07.02.2024