



C.M.A(MD)No.833 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

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1.The Branch Manager,
M/s.United India Insurance Company Limited,
Park House Round North, Thiruchur,
Kerala.

2.The Branch Manager,
M/s.United India Insurance Company Limited,
T.S.No.5476/79, Sundaram Masilla Maaligai,
Old Thirumayam Road,
Pudukkottai Town,
Pudukkottai District.

... Appellants

Vs.

1.Vinoth
2.Mathew
3.Aravindhan

... Respondents

*(Notice to 2nd and 3rd respondent is given up
as no relief is claimed against them)*

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, against the Fair and Decretal Order dated 29.03.2021 made in M.C.O.P.No.181 of 2016 on the file of the Motor Accidents Claims Tribunal (Additional District Court), Pudukkottai.

For Appellants	: Mr.B.Rajesh Saravanan
For R1	: M/s.A.Banumathy
R2 and R3	: Given up



JUDGMENT

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The Insurance Company has preferred this Civil Miscellaneous Appeal.

2. It is a case of injury. The two-wheeler had hit against the heavy vehicle, thereby the driver of the two-wheeler suffered injury. The Tribunal had fixed the partial permanent disability as 90%. Both the two-wheeler and the heavy vehicle were insured with United India Insurance Company Limited. The tortfeasor is the two-wheeler. The Tribunal has fixed the contributory negligence of 20% on the driver of the two-wheeler and further directed the United India Insurance Company to pay the 20% contributory negligence. When the tortfeasor is the claimant, the Insurance Company is not liable, hence the Insurance Company prayed to delete the 20% of the award (i.e., Rs.1,37,490/-) to be given by the 2nd appellant herein. This Court is accepting the plea of the Insurance Company. Since the tortfeasor cannot make any claim, the claimant cannot force the Insurance Company to pay the compensation. Therefore, that portion of the order alone is modified.

3. The modified compensation granted by this Court is as under:

Total compensation granted by Tribunal = Rs.6,87,450/-



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Deducting 20% of contributory negligence = - Rs.1,37,490/-

Total compensation granted by this Court = Rs.5,49,960/- (reduced)

3. Therefore, the 1st appellant herein is directed to deposit Rs.5,49,960/- 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 eight weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same with accrued interests and costs, less the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal. The 2nd appellant herein is permitted to withdraw the excess deposited amount along with accrued interest of the excess amount, if any.

4. With the above said directions, the Civil Miscellaneous Appeal is partly allowed. No costs.

01.03.2024

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

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1. The Motor Accidents 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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