



C.M.A(MD)No.725 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 04.01.2024

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THE HON'BLE MR.JUSTICE S.SRIMATHY

C.M.A(MD)No.725 of 2021
and
C.M.P.(MD)No.6652 of 2021

M/s.United India Insurance Company Limited,
Ambasamuthiram.

... Appellant

Vs.

1.Mariammal
2.Saradha
3.Minor Sankar
4.Minor Sanjeev @ Sanjay Kumar

(Minor respondents 3 and 4 represented
by their mother and natural guardian
Mariammal/ 1st respondent herein)

5.Mookammal
6.Sulaiman Rawther
7.Rajesh

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the Decree and Judgment, dated 21.12.2020, in M.C.O.P.No.25 of 2017 on the file of the Motor Accidents Claims Tribunal Cum Additional Sub Court, Tenkasi.

For Appellant : Mr.C.Karthik



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For Respondents : Mr.R.J.Karthik

JUDGEMENT

The Civil Miscellaneous Appeal is filed by the Insurance Company against the award passed in M.C.O.P.

2. The contention of the Insurance Company is that it is a case of drunken driving, wherein the driver under the influence of alcohol committed the accident by hitting against a stationed vehicle and the said fact was confirmed by the Tribunal. And the Tribunal has fixed 50% contributory negligence for the drunken driving. Aggrieved over the same, the present Civil Miscellaneous Appeal is filed on the ground that the entire negligence is on the part of the deceased and hence the Insurance Company is not liable. Moreover, the deceased was not possessing any license as well.

3. It is the case of fatal and the Tribunal has taken into consideration of these factors and has fixed the liability on the Insurance Company. The Tribunal has rightly taken the contributory negligence on the part of the negligence on the Driver as well and has fixed only 50% of the award. But for not possessing license the Tribunal ought to have



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deducted some amount.

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4. It is seen that the compensation awarded is Rs.6,80,000/-. The interest at 7.5% per annum from 21.02.2017 to 21.12.2020 comes Rs. 1,95,616/-. The Insurance Company has already deposited the entire amount of Rs.8,75,616/-. Therefore, in order to meet the ends of justice, this Court is of the considered opinion that the claimants are entitled to Rs.8,00,000/- and the insurance company is entitled to balance amount of Rs.75,616/-.

5. The claimants are entitled to Rs.8,00,000/- along with interest accrued in the deposited account for Rs.8,00,000/-, if it is deposited in an interest accruing account. Therefore, 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, without filing any application before the Tribunal. The Tribunal is directed to deposit the shares of the minor children in a nationalized bank until they attain majority. The first respondent herein, who is the mother/guardian, is permitted to withdraw the interest amount



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once in three months. The Insurance Company is entitled to withdraw the balance of Rs.75,616/- along with the along with interest accrued in the deposited account for Rs.75,616/-, if it is deposited in an interest accruing account.

6. With the above said directions, the award is modified as stated supra. Hence, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

04.01.2024

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

To

- 1.Motor Accidents Claims Tribunal
Cum Additional Sub Court,
Tenkasi.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

Tmg

Order made in
C.M.A(MD)No.725 of 2021

04.01.2024