



C.M.A(MD)No.561 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.561 of 2021

Royal Sundaram General Insurance Company Limited,
Represented by its Branch Manager,
Door No.2/319, Visaranthimelaram Towers,
Rajiv Gandhi Salai (OMR),
Karapakkam, Chennai – 600 097.

... Appellant

Vs.

1.Prabhu
2.Kalavathi

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the fair and decreetal order dated 04.03.2020 made in M.C.O.P.No.35 of 2017, on the file of the by the Motor Accident Claims Tribunal, (Subordinate Court), Aruppukkottai.

For Appellant	: Mr.S.Srinivasa Raghavan
For R1	: Mr.G.Mariappan
For R2	: No Appearance

JUDGMENT

The Insurance Company has preferred this Civil Miscellaneous Appeal.



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2. It is a case of injury. The disability is assessed as 85%. The contention of the Insurance Company is that the entire tort ought to be fasten on the injured person, since the injured person crossed the meridian, came to the right side of the road and committed the accident, which is evident from the FIR. Hence, the entire liability fasten on the Insurance Company is perverse.

3. Whenever tort is committed then contributory negligence ought to be fixed on the tortfeasor. In such circumstances, the insurance company cannot be absolved from their liability, but the compensation amount may be deducted by fixing contributory negligence. Therefore, compensation amount awarded by the Tribunal is confirmed by this Court but this Court is fixing the contributory negligence on the part of the injured to the tune of 40%. Hence, the Insurance Company is liable to pay 60% of the compensation granted by the Tribunal which is as under:

Total compensation granted by the Tribunal = Rs.12,12,752.00/-

Deducting 40% contributory negligence = - Rs.4,85,100.80/-

60% payable by Insurance Company = Rs.7,27,651.20/-

4. The appellant Insurance Company is directed to deposit Rs.7,27,651.20/-



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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.

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

13.03.2024

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

Tmg

To

1.Motor Accident Claims Tribunal /
(Subordinate Court), Aruppukkottai.

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



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S.SRIMATHY, J.

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