



C.M.A(MD)No.917 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.02.2024**

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.917 of 2021

and

C.M.P.(MD)No.8652 of 2021

The United India Insurance Company Limited,
Regional Office,
TP HUB, 7, West Veli Street,
Madurai – 2,
Through its Manager.

... Appellant/2nd Respondent

Vs.

1.K.Neppolean

2.K.Virumandi (died)

3.Saraswathi Ammal

4.Karuthammal (died)

5.Kamatchi

6.Chellandi

7.Chellayee

... Respondents 1 to 7/Petitioners 1 to 7

8.Soundarapandi

.... 8th Respondent/1st Respondent



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9.Vijayasekari

10.Sankarabalan

11.Sangeetha

12.Ramakrishnan

13.Mariya Jesiliya Vijayakumar

14.Dhanasekaran ... Respondents 9 to 14

(Respondents 9 to 11 are brought on record as LR's of the deceased second respondent vide order dated 20.09.2021)

(Respondents 12 to 14 are brought on record as LR's of the deceased fourth respondent vide order dated 20.09.2021)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the fair and decretal order dated 09.08.2019 in M.C.O.P.No.91 of 2017 on the file of the Additional District and Sessions Court, Theni Camp at Periyakulam.

For Appellant : Mr.C.Karthik

For Respondents : Mr.G.Kaleeswaran
for R.1, R.3, R.5 to R.7 & R.9 to R.14

: No appearance
for R.8



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JUDGEMENT

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This appeal has been preferred by the Insurance Company against the order passed by the Tribunal.

2. It is the case of injury. The contention of the Insurance Company is that the injured was admitted in the hospital as inpatient from 28.03.2017. After a month, the injured died due to “Coronary Heart Disease”. It is the specific contention of the appellant that the injured did not die due to accident, hence the liability cannot be fixed on the Insurance Company.

3. On perusing the medical certificate, it is seen that the deceased is 70 years old, he sustained several injuries on his right thigh, right leg and shoulder and also had fractures in three places. Due to these injuries and also due to age, the injury had led to several complications and thereafter, he died. It may be the death is not immediate, but it is due to the accident the injured has died coupled with the fact of age. Hence, the contention of the Insurance Company may be partially true, but it cannot be accepted that the Insurance Company is not at all liable.



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4. Therefore, in order to meet the ends of justice, this Court is of the considered opinion that the Insurance Company is liable to pay Rs.5,00,000/- (Rupees Five Lakh only) without any interest as full and final settlement. The appellant Insurance Company shall deposit Rs.5,00,000/- 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 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. If any of the claimant had died, the legal heirs of the deceased claimant shall withdraw the share of the deceased claimant and share it equally among themselves.

5. With the above said modification, this Civil Miscellaneous Petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

06.02.2024

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

S.SRIMATHY, J.



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To

- 1.The Additional District and Sessions Court,
Theni Camp at Periyakulam.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

Order made in
C.M.A(MD)No.917 of 2021

06.02.2024