



C.M.A.(MD)No.145 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2024

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

C.M.A.(MD)No.145 of 2015

and

M.P.(MD).No.1 of 2015

The Branch Manager,
United India Insurance Company Ltd.,
Madurai Road,
Virudhunagar.

... Appellant / 2nd Respondent

Vs.

1.Maruthappan

... 1st Respondent / Claimant

2.Vetrivel Arasu

... 2nd Respondent / 1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order passed by the learned Additional District cum Sessions Judge / Motor Accident Claims Tribunal, Virudhunagar dated 07.04.2014 in M.C.O.P.No.92 of 2012 and allow the appeal.

For Appellant : Mr.N.Dilip Kumar

For R-1 : Mr.S.Srinivasaraghavan

For R-2 : No appearance



C.M.A.(MD)No.145 of 2015

JUDGMENT

WEB COPY This Civil Miscellaneous Appeal has been preferred by the Insurance Company against the order dated 07.04.2014 passed by the learned Additional District cum Sessions Judge / Motor Accident Claims Tribunal, Virudhunagar in M.C.O.P.No.92 of 2012.

2. This is a case of injury. The contention of the Insurance Company is that the two-wheeler is the tortfeasor, who had dashed against the stationed lorry. Moreover, there was no license for the injured and there is no valid reason for not having the license, hence the compensation granted by the Tribunal is erroneous.

3. On perusal of the record, it is seen that the accident took place on 09.12.2011 at 7.30. pm. Moreover, there is no clarity whether the stationed lorry had used any indicator or not. Therefore, this Court is of the considered opinion that contributory negligence ought to be fixed on the two-wheeler. However rather than fixing the contributory negligence in percentage, this Court is inclined to reduce compensation from Rs.2,71,000/- to Rs.2,00,000/- (Rupees Two Lakhs only). The rest of the portion of the award is confirmed.



C.M.A.(MD)No.145 of 2015

4. With this modification, this Civil Miscellaneous Appeal is partly allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

20.06.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes

Sml

To

- 1.The Additional District cum
Sessions Judge / Motor Accident
Claims Tribunal, Virudhunagar
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A.(MD)No.145 of 2015

S.SRIMATHY, J.

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C.M.A.(MD)No.145 of 2015

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