BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.03.2024**

CORAM

**THE HON'BLE MRS.JUSTICE S.SRIMATHY**

**C.M.A(MD)Nos.1118 of 2021 and 102 of 2022**
and
C.M.P.(MD).Nos.10755 of 2021 and 975 of 2022

C.M.A.(MD).No.1118 of 2021:

The Manager,
Iffco-Tokio General Insurance Company Limited,
Five Lamps, Chekkalai Road,
Karaikudi Taluk, Sivagangai District. ... Appellant

Vs.

1.Anjugam
2.Akesh
3.Minor Suriya
4.Minor Iswarya

(3rd & 4th Minor Respondents through their mother and guardian the 1st Respondent)

5.Subbulakshmi ... Respondents

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, 1988, against the award and decree dated 18.02.2020 passed in M.C.O.P.No.49 of 2017 on the file of the Motor Accident Claims Tribunal Judge/Principal District Judge of Ramanathapuram.

For Appellant : Mr.V.Sakthivel

For R 1 to 4 : Mr.J.Madhu
R3 and R4 : Minors represented by R1
For R5 : No Appearance

C.M.A.(MD)No.102 of 2022:

The Manager,
Iffco-Tokio General Insurance Company Limited,
Five Lamps, Karikudi Chekkalai Road,
Karaikudi Taluk, Sivagangai District. ... Appellant

Vs.

1.Reeta Sumathi
2.Minor.Sanjay
3.Minor.Kamalesh

(2nd & 3rd Minor Respondents through their mother and guardian the 1st Respondent)

4.Murugayee
5.Subbulakshmi ... Respondents

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, against the award and decree dated 18.02.2020 passed in M.C.O.P.No.79 of 2017 on the file of the Motor Accident Claims Tribunal Judge/Principal District Judge of Ramanathapuram.

For Appellant : Mr.V.Sakthivel
For R1 to R4 : No Appearance
R4 : Died

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**COMMON JUDGMENT**

The Insurance Company has preferred these Civil Miscellaneous Appeals.

2. The contention of the Insurance Company is that the complainant namely Senthil had preferred the claimant wherein he had specifically stated that an unknown vehicle has hit the deceased two-wheeler. In such circumstances, it is a case of hit and run. But the said Senthil had deposed as an eye witness that the first respondent vehicle caused the accident. The Learned Counsel for the respondents 1 to 4 in C.M.A.(MD)No.1118 of 2021 vehemently objected to the said contention of the Insurance Company, since based on the CCTV footage and based on investigation, the Police Officials have come to the conclusion that the insured vehicle had committed the accident.

3. On perusing the evidence, it is seen that the investigation report states that the vehicle is involved. Moreover, the Tribunal has elaborately discussed about this and has come to the conclusion based on the evidence. Therefore, there is no perversity in the order passed by the Tribunal. Moreover, the Insurance Company has not let in any contra evidence to revert such conclusion. Therefore,

the Insurance Company has not raised any legally sustainable grounds to interfere with the impugned orders. Hence, the orders passed by the Tribunal in both cases are confirmed.

4.Therefore, in C.M.A.(MD)No.1118 of 2021, the appellant and the 5th respondent herein are directed to deposit Rs.13,73,000/- jointly or separately 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 four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants 1 & 2 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, by filing appropriate application before the Tribunal. The Tribunal is directed to deposit the shares of the minor children in a nationalized bank until the children attain majority. The first respondent herein, who is the mother/guardian, is permitted to withdraw the interest amount once in three months. Once the minor claimants attain majority, they can withdraw their shares with accrued interests.

5.In C.M.A.(MD)No.102 of 2022, the appellant and the 5th respondent herein are directed to deposit Rs.16,10,000/- jointly or separately 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 four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants 1 & 4 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, by filing appropriate application before the Tribunal. The Tribunal is directed to deposit the shares of the minor children in a nationalized bank until the children attain majority. The first respondent herein, who is the mother/guardian, is permitted to withdraw the interest amount once in three months. Once the minor claimants attain majority, they can withdraw their shares with accrued interests.

6.Hence, Civil Miscellaneous Appeals are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

**07.03.2024**

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

To:

1.The Motor Accident Claims Tribunal Judge/Principal District Judge,
Ramanathapuram.

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

**S.SRIMATHY, J.**

Tmg

C.M.A(MD)Nos.1118 2021 and 102 of 2022

07.03.2024