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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.10 of 2022

and

C.M.P(MD)No.69 of 2022

The National Insurance Company Limited,
Bodinayakanoor Branch,
Through its Branch Manager,
Kamarajar Bazaar,
Bodinayakanoor (Reshman Store's upstairs)

... Appellant

Vs.

D.Nagappan (Died)

1.N.Suruliammal

2.N.Nagaraj

3.N.Nagajothi

4.B.Venkatesan

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, praying to set aside the Judgment and Decree in M.C.O.P.No.17 of 2015 dated 27.08.2020, on the file of the Motor Accident Claims Tribunal, Subordinate Court, Theni.

For Appellant : Mr.J.S.Murali

For Respondents 1 to 3 : Mr.E.Rajasekar



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JUDGEMENT

This Civil Miscellaneous Appeal has been filed by the Insurance Company to set aside the Judgment and Decree in M.C.O.P.No.17 of 2015 dated 27.08.2020, on the file of the Motor Accident Claims Tribunal, Subordinate Court, Theni.

2. It is a case of fatal. The driver of the vehicle died in the accident. The contention of the insurance company is that the driver was not possessing valid driving license, hence the insurance company is not liable to pay any compensation and the owner of the vehicle is only liable to pay the compensation and prayed to grant Pay and Recovery.

3. The next contention of the Insurance company is that the accident took place on 06.07.2014, but the deceased died on 11.12.2015, after nearly one year. Moreover, it is a case of suicide. But the claimants vehemently contested and submitted that the deceased had committed suicide because of the accident, since in the accident, the deceased has sustained serious injuries, further his right leg was damaged and his left leg was crushed. Further it was prolonged treatment.



4. After hearing the arguments this Court in order to give fair and just compensation, this Court is of the considered opinion that the claimants are not entitled to any interest and also a portion of compensation. Considering the facts and circumstances of the case, this Court is inclined to award a sum of Rs. 5,50,000/- as full quit. The Insurance company is directed to pay the same within a period of 8 weeks from the date of receipt of a copy of the order and the same shall be recovered from the owner of the vehicle. On such deposit, the claimants are entitled to withdraw the same as per the apportionment granted by the Tribunal.

5. With these modifications, this Civil Miscellaneous appeal is partly allowed. No Costs. Consequently, connected miscellaneous petition is closed.

05.03.2024

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

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To

1. The Motor Accident Claims Tribunal,
Subordinate Court,
Theni.

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



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S.SRIMATHY, J.

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**Judgment made in
C.M.A(MD)No.10 of 2022**

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05.03.2024