



C.M.A..(MD)No.41 of 2009

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED **08.03.2024**

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THE HONOURABLE **MRS.JUSTICE V.BHAVANI SUBBAROYAN**

C.M.A.(MD)No.41 of 2009

The Branch Manager,
United India Insurance Co. Ltd.,
Branch Office,
ASSISI Building,
Nagercoil.

...Appellant

/Vs./

1.J.Pushpa Leela
2.J.P.Muthulakshmi
3.J.P.Selvi Vijayalakshmi
4.T.Ganesan
5.T.Sivakumar
6.Mariammal

...Respondents

Prayer: Appeal - filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 26.02.2007 in MCOP NO.191 of 2004 on the file of the MACT (District Judge), Nagercoil.

For Appellant : Mr.G.Prabhurajadurai

For Respondents : Mr.C.Godwin (R1 to R3)

Mr.P.T.Ramseh Raja (R4)

No appearance (R5)

Dismissed & Deferred (R6)



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JUDGMENT

WEB COPY This appeal has been filed challenging the judgment and decree dated 26.02.2007 in MCOP NO.191 of 2004 on the file of the MACT (District Judge), Nagercoil.

2. The brief facts of the case are as follows:-

(i) When the deceased / husband of the first respondent was proceeding towards Erachakulam from Kulathoor in a Scooter, a lorry bearing Registration No. TN-74-B-3607 came in a rash and negligent manner and dashed against the deceased, due to which, the deceased sustained injuries and succumbed to death. Hence, the claimants, who are the wife and daughters of the deceased filed a claim petition in MCOP No.191 of 2004 seeking compensation amount.

(ii) The Insurance Company filed a counter denying all the averments and stated that the accident was happened only due to the rash and negligent driving of the deceased.

3. Before the Tribunal, on the side of the claimants, P.W.1 and P.W.2 were examined and Exs.P1 to P10 were marked and on the side of the Insurance Company, R.W.1 was examined and Ex.R1 was marked.



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4. The Tribunal, after considering oral and documentary evidence available on record, found that the accident was happened due to the rash and negligent driving of the Lorry Driver and awarded the total compensation of Rs.10,54,753/- to the claimants, who are the wife and daughters of the deceased and also to the fourth respondent, who is the mother of the deceased, along with the interest at the rate of 12% from the date of filing of the petition. Challenging the same, the Insurance Company filed this appeal.

5. The learned counsel appearing for the Insurance Company states that though the appellant / insurance company filed this appeal by raising various grounds, they restrict the prayer only to the interest portion alone.

6. I have heard the learned counsel appearing on either side and also perused the materials available on record.

7. Considering the facts and circumstances of this case and considering the submission made by the learned counsel appearing for the appellant insurance company, the interest fixed at the rate of 12% per annum on the compensation awarded by the Tribunal is reduced to 10% per annum. Accordingly, this Civil Miscellaneous Appeal is allowed.



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8. The appellant and the fourth and the fifth respondents are directed to deposit the entire compensation amount along with interest at the rate of 10% per annum as modified by this Court to the credit of M.C.O.P.No.191 of 2004, on the file of the Motor Accident Claims Tribunal / District Judge, Nagercoil, within a period of one month from the date of receipt of copy of this judgment, less the amount, if any already deposited. On such deposit, the respondents 1 to 3 and the 6th respondent are permitted to withdraw their share as apportioned by the Tribunal, less the amount, if any, already withdrawn, by making necessary application before the Tribunal. No costs.

08.03.2024

NCC : Yes/No

Index : Yes/No

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TO:-

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- 1.The Motor Accidents Claims Tribunal,
MACT (District Judge), Nagercoil.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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V.BHAVANI SUBBAROYAN, J.

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Judgment made in
C.M.A.(MD)No.41 of 2009

Dated:
08.03.2024