



C.M.A.No.3444 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.3444 of 2024

United India Insurance Co.Ltd.
Divisional Office – II, 1st Floor,
Peramanur Main Road,
Salem – 636 007.

... Appellant

Vs.

1. Andiperumal
2. Arayee
3. Jayakumar
4. Perumal
5. K.Lakshmanan

... Respondents

Prayer:Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree 30.09.2014 made in M.C.O.P.No.70 of 2009 on the file of MACT (ADJ-Spl.J/EC.Act) at Salem.

For Appellant : Mr.I.Malar

JUDGMENT

The above appeal is filed by the appellant/Insurance company against the judgment and decree 30.09.2014 made in M.C.O.P.No.70 of 2009 on the file of



C.M.A.No.3444 of 2024

MACT (ADJ-Spl.J/EC.Act) at Salem.

WEB COPY

2. In view of the order being passed in this appeal, notice to the respondents is dispensed with.

3. It is the case of the appellant / Insurance company that, on 29.08.2008 at about 7.15 pm, when the first respondent namely Andiperumal was walking on the side of the road, at that time a two wheeler bearing Regn.No.TN 30 AZ 6431 came in a rash and negligent manner and dashed the said Andiperumal, due to which, he sustained grievous injuries and went to vegetative state. Therefore, the claimants 2 and 4 who are the wife and children of said Andiperumal / first respondent have filed a claim petition claiming a sum of Rs.10,00,000/- for the injuries sustained by the said Andiperumal in the said accident.

4. Before the Tribunal, the claimants / respondents have examined P.W.1 and P.W.2 and marked Exhibits P.1 to Ex.P.5. On the side of the appellant / insurance company, they examined R.W.1 and R.W.2 and marked Exs.R1 to R3. After adjudication, the Tribunal awarded a sum of Rs.3,71,600/- as compensation to the claimants. Challenging the same, the appellant / Insurance



C.M.A.No.3444 of 2024

company has preferred the present appeal.

WEB COPY

5. The learned counsel appearing for the appellant / Insurance company submitted that, the driver of the two wheeler was not possessing a valid driving licence at the time of accident. In order to prove the same, the appellant has examined R.W.1 who is the Assistant from Omalur Regional Transport Office, who clearly deposed that at the time of inspection of two wheeler by the Motor Vehicle Inspector, the Driver of the two wheeler has not produced any driving licence. Hence the appellant is not liable to indemnify the claimants for the loss sustained by them due to injuries sustained by the first respondent.

6. Heard the learned counsel appearing for the appellant and perused the materials available on record.

7. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. Admittedly, the accident happened on 29.08.2007. In order to prove the said incident, the claimant has examined an independent eye witness, P.W.1. who categorically deposed before the Tribunal that the accident had occurred solely due to the driver of the two wheeler, due to which the first respondent went to vegetative



C.M.A.No.3444 of 2024

state. However, in order to disprove the same, no independent eye witness has been examined by the appellant / Insurance company. It is also the claim of the appellant that the driver of the two wheeler was not in possession of a valid driving licence for which, they examined R.W.1, who is the Assistant of Omalur Regional Transport Office. Though the licence is being issued by the Regional Transport Officer, the appellant has examined R.W.1, Assistant of Omalur Regional Transport Office and R.W.2, Manager of appellant / Insurance company, who are not sufficient witnesses to hold that the Driver of the two wheeler was not possessing a valid driving licence at the time of accident. Moreso, the appellant has not taken any steps to serve notice either to the fifth respondent /owner or to the driver of the two wheeler for production of driving licence. In the absence of any evidence or proof to nullify the claim of the claimants, the contention made by the learned counsel appearing on behalf of the appellant cannot be acceded to. Upon appreciating the oral and documentary evidence, the Tribunal has rightly awarded a sum of Rs.3,71,600/- in favour of the claimants, which does not require any interference.

8. For the reasons aforesaid, this Appeal stands dismissed, confirming the award passed by the tribunal in MCOP.No.70 of 2009 dated 30.09.2014 and the appellant / Insurance company is directed to deposit the compensation of



C.M.A.No.3444 of 2024

Rs.3,71,600/- awarded by the tribunal to the credit of M.C.O.P.No.70 of 2009

along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less the amount, if any, already deposited, within a period of six weeks (6) from the date of receipt of a copy of this judgment, if not already deposited. On such deposit being made, the Tribunal is directed to transfer the said amount to the respondents 1 to 4 directly to his bank account through RTGS within a period of two (2) weeks thereafter. There shall be no order as to costs in this appeal. The compensation amount shall be apportioned among the claimants as per the order of the Tribunal. No costs.

02.01.2025

Index : Yes / No
Speaking order / Non-speaking order
Netrual Citation Case : Yes / No
rap



WEB COPY



C.M.A.No.3444 of 2024

M.DHANDAPANI, J.

rap

To

1.MACT (ADJ-Spl.J/EC.Act) at Salem.

2.The Section Officer, V.R.Section, High Court, Madras.

C.M.A.No.3444 of 2024