

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 05.03.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.372 of 2015
and
M.P.No.1 of 2015

The Oriental Insurance Company Limited,
Rep. by its Branch Manager,
T.O.I.S.M. Complex,
Opposite to Town Railway Station,
Railway Station Road, Palakkad. Appellant /2nd Respondents

Vs.

1.Marammal
2.Saroja
3.Selvaraj
4.Murthy
5.Jayaradhakrishnan Respondents/Petitioner/Ist Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act,1988, against the decree and judgment dated 16.12.2013 made in M.C.O.P.No.480 of 2007 on the file of Motor Accident Claims Tribunal, (II Additional District Court), Tiruppur.

For Appellant : Mr.S.Manohar

For Respondents : Mr.Ma.Pa.Thangavel for
R1 to R4

JUDGMENT

This appeal has been preferred by the Insurance Company against the award of Rs.62,000/-, for the injuries sustained by one Gopal, aged about 70 years, in the accident, which occurred on 22.02.2007.

2. Heard Mr.S.Manohar, learned counsel appearing for the appellant and Mr.Ma.Pa.Thangavel, learned counsel appearing for the respondents 1 to 4.

3. Though the learned counsel appearing for the appellant would submit that pay and recovery should have been ordered as no valid license was possessed by the driver of the van at the time of motor vehicle inspection, the Tribunal took into consideration non issuance

of notice to the owner and driver of the van to produce the license, rightly did not order pay and recovery. It is true that the motor vehicle inspector, who inspected the vehicle deposed that the driver of the van did not produce valid driving license and that itself would not automatically lead to a conclusion that there was no valid license possessed by the driver at the time of accident. Therefore, the contention of the learned counsel appearing for the appellant that the pay and recovery should have been ordered is rejected.

4. Though the victim during the pendency of the case died, the Tribunal rightly awarded only Rs.62,000/- for the injuries sustained by him and did not order any amount for the death as there was no connection between the injury and the death. Therefore, the sum of Rs.62,000/- awarded by the Tribunal along with interest at the rate of 7.5 % is confirmed.

5. The appellant Insurance Company is directed to deposit the entire amount awarded by the Tribunal along with interest at the rate of 7.5% with costs, within a period of four weeks from the date of receipt of a copy of this order.

6. Even though the Tribunal shared the award amount between all the legal heirs of Gopal, considering the major and married sons and daughters, this Court awards Rs.62,000/- only in favour of the first respondent/wife.

7. With the above modification, the civil miscellaneous appeal is dismissed. No costs. Consequently, connected M.P. is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rrg

To

The Motor Accident Claims Tribunal,
(II Additional District Judge),
Tiruppur.

1 cc to Mr.Ma.Pa.Thangavel ,Advocate, SR.No.12437

1 cc to Mr. S.Manohar,Advocate, SR.No.12293

C.M.A.NO.372 of 2015

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pmk.10.4.2015