



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2016

Coram:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.873 of 2015

and

M.P(MD)No.1 of 2015

O.Lakshmi

.. Appellant/1st Respondent

-Vs-

1.S.Muthulakshmi

2.Minor S.Valli Nayagam

3.Minor S.Mahesh

4.Pitchammal

.. Respondents 1 to 4/Petitioners 1 to 4

5.The New India Assurance Company Limited,

2nd Floor, Jeewan Deep Building,

8, Parliament Street,

New Delhi.

.. 5th Respondent/2nd Respondent

(RR 2 & 3 are rep. By their mother
and next friend ie., 1st respondent)

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 24.08.2012 made in M.C.O.P.No.292 of 2011 on the file of the Motor Accident Claims Tribunal, Principal District Court, Thoothukudi.

For Appellant : Mr.D.Rajkumar

For RR 1 to 4 : A.George Stephen Kanikkairaj

For R - 5 : Mr.J.S.Murali

JUDGMENT

The appellant/first respondent, who is the owner of the vehicle, has filed the Civil Miscellaneous Appeal against the Judgment and Decree, dated 24.08.2012 made in M.C.O.P.No.292 of 2011 by the Motor Accident Claims Tribunal, Principal District Court, Thoothukudi.

2.The accident took place on 14.04.2011 at about 05.15 hours at Konni-Pathanapuram main road and unfortunately, it is a case of fatal and the heirs of the deceased filed a claim petition for



compensation.

3. Considering the facts and circumstances of the evidences, the Motor Accident Claims Tribunal/Principal District Court, Thoothukudi, has awarded a compensation of Rs.5,99,500/- with interest at the rate of 7.5% p.a from the date of filing the petition till the date of realization. Against which, the present appeal is filed by the appellant/owner of the vehicle questioning the pay and recovery order passed by the Tribunal.

4. Admittedly, it is a case of pay and recovery in view of the fact that the driver, who had driven the vehicle met with an accident, did not possess any valid driving licence, and the licence which he was holding was expired and the same was not renewed. Hence, it has to be treated that the vehicle was driven without any valid licence.

5. In view of the admitted fact that it is a case of pay and recovery, the appeal does not arise for consideration and the award of the Motor Accident Claims Tribunal is confirmed.

6. Accordingly, this Civil Miscellaneous Appeal is dismissed. The learned counsel appearing for the fifth respondent/Insurance Company represented that entire award amount had already been deposited. The respondents 1 and 4 are permitted to withdraw their respective shares, as per the ratio of apportionment made by the Tribunal, with proportionate accrued interest and costs by filing necessary application before the Tribunal. The Tribunal is directed to deposit the share of the minors-second and third respondents in any one of the Nationalised Banks, in a Fixed Deposit scheme, till they attain majority. The first respondent, who is the mother and guardian of the minor claimants, is permitted to withdraw the accrued interest of the minor once in three months directly from the bank, only for the welfare of minors. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (CS II)

/True Copy/

Sub Assistant Registrar

ps

To

The Motor Accident Claims Tribunal,
Principal District Court,
Thoothukudi.



+1cc to Mr.G.R.SWAMINATHAN, Advocate Sr.No. 66793

+1cc to M/S.J.S.MURALI, Advocate Sr.No. 66533

WEB COPY

+1cc to M/S A.GEORGE STEPHEN KANIKKAIRAJ Advocate Sr.No.66719

JAM/29.12.16/PV/ 3P-5C

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