

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 08.09.2017****CORAM****WEB COPY****THE HONOURABLE MRS.JUSTICE J.NISHA BANU****C.M.A. (MD) No.2032 of 2013**

The Regional Manager,
The Oriental Insurance Company Limited,
Karur.

... Appellant/2nd Respondent**Vs.**

1.Kaliappan
2.R.Paramasivam
3.S.Subbulakshmi

... Respondents 1 to 3/
Petitioners

4.K.Vadivel

... 4th Respondent/1st Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Order and decree passed in M.C.O.P.No.83 of 2008 dated 04.08.2011 on the file of the Motor Accident Claims Tribunal, Sub Court, Palani.

For Appellant : Mr.C.Jawahar Ravindran
For R-1 to R-3 : Mr.Venkatesh

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company, against the judgment and decree dated 04.08.2011, passed in M.C.O.P.No.83 of 2008, by the learned Sub Judge, Motor Accident Claims Tribunal, Palani.

2.It is a case of death caused by the fourth respondent, in an accident, which took place on 08.06.2007 at about 08.00 p.m., at Palani to Ottanchathiram Main road.

3.It is the case of the claimant before the Tribunal that when his father was walking on the road side as a pedestrian, on Palani to Ottanchathiram main road, near one Dhanasekar house, a J.C.B bearing Registration No.TN 30 Z 9977, came in a rash and negligent manner and dashed against the deceased, which was coming in a high speed from the opposite direction and in that accident, the claimants' father was died. Hence, the claimants filed an application in M.C.O.P.No.83 of 2008, on the file of the Motor Accident Claims Tribunal, Sub Court, Palani, seeking compensation.

4.Before the Tribunal, on the side of the petitioners/claimants, P.W.1 examined and Exs.P1 to P5 were marked. On the side of the respondents R.W.1 examined and Ex.R1 was marked.



5. On consideration of the evidence available on record, the Tribunal, has awarded a sum of Rs.1,41,000/- with interest at the rate of 7.5% p.a. Challenging the said award, the Insurance Company is before this Court.

6. Heard the learned Counsel appearing for the appellant and the learned counsel for the respondents 1 to 3 and perused all the materials available on record.

7. It is the specific case of the appellant/Insurance Company that the owner of the offending vehicle did not have the valid driving licence at the time of accident and hence, he prays for pay and recovery.

8. Admittedly, there is no discussion in the Judgement, that the owner did not possess valid driving licence at the time of accident, except mentioning in the charge sheet and there is no evidence to show that the owner was summoned to produce the licence or the Regional Transport Officer was examined to state that the owner did not have any valid driving licence.

9. Considering the above facts and circumstances of the case, I am of the view that there is no infirmity in the award passed by the Tribunal and the same does not require interference at the hands of this Court.

10. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 04.08.2011, passed in M.C.O.P.No.83 of 2008, by the learned Sub Judge, Motor Accident Claims Tribunal, Palani, is confirmed. The appellant is directed to deposit the entire award amount with accrued interests and costs, within a period of four weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the claimants are permitted to withdraw their share amount with accrued interests and costs, as apportioned by the Tribunal. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To,

1. The Motor Accident Claims Tribunal,
Sub Court, Palani.

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

+1cc to M/s.D.VENKATESH Advocate in SR. No. 77720

RJ2