



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No. 150 of 2011

and

M.P.(MD)No.1 of 2011

The Branch Manager,  
The Oriental Insurance Company Ltd.,  
Gopal Rao Building,  
First Floor, Town Hall Road,  
Kumbakonam.

... Appellant / 2<sup>nd</sup> Respondent

**Vs.**

1.Kumaraian

... 1<sup>st</sup> Respondent/Petitioner

2.Palanivel

... 2<sup>nd</sup> Respondent/1<sup>st</sup> respondent

3.G.Panneerselvam

... 3<sup>rd</sup> Respondent/3<sup>rd</sup> respondent

4. Branch Manager,  
United India Insurance Company Ltd.,  
South Street,  
Thanjavur Town and Munsif.

... 4<sup>th</sup> Respondent/4<sup>th</sup> respondent

**PRAYER:-** Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 29.04.2010 made in M.C.O.P.No.77 of 2008 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.II, Pudukkottai, praying to set aside the same.

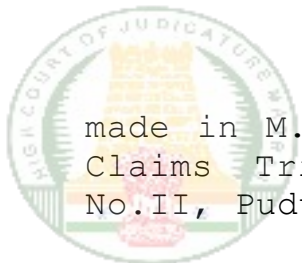
For Appellant : Mr.A.K.Baskarapandian

For R-1 : Mr.D.Murugesan

For R2 and R3 : No Appearance

For R-4 : Mr.J.S.Murali

**J U D G M E N T**



made in M.C.O.P.No.77 of 2008 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.II, Pudukkottai.

2. It is a case of injury caused due to the accident that took place on 28.04.2006 at about 10.45 a.m at Orathanadu-Pappanadu Main Road, in which, the driver of the Ambassador Car bearing Registration TN-49-A-4474 which is insured with the appellant-Insurance Company, drove the vehicle in a rash and negligent manner and dashed against the deceased, who was travelling as a pillion rider in his friend's two wheeler and due to the accident, he sustained grievous injuries all over the body and there was fracture in left leg, left hand and hip and a plate was fixed in his left leg.

3. The claimant filed an application in M.C.O.P.No.77 of 2008 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.II, Pudukkottai, seeking compensation.

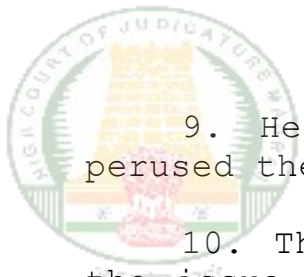
4. Before the Tribunal, the respondent No.1/Claimant examined two witnesses as P.Ws.1 and 2 and marked eleven documents as Ex.P.1 to Ex.P.11. On the side of the appellant R.W.1 was examined and no documentary evidence was marked.

5. The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel for the appellant and claimants and also on appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the driver of the Ambassador Car, which is insured with the Insurance Company and directed the appellant/Insurance Company to pay a sum of Rs.80,300/-, as compensation.

6. Against which, the appellant/Insurance Company has filed this present appeal on the ground that the Tribunal has erred in fixing the entire negligence on the part of the driver of the Ambassador Car and as per the evidence of R.W.1, the driver of the car has no endorsement to drive the transport vehicle.

7. Though the learned counsel appearing for the appellant/Insurance Company has raised many other grounds, he would make submission only on the ground that the driver of the Ambassador car has no endorsement to drive the vehicle.

8. Per contra, the learned counsel for the first respondent/claimant contented that the Tribunal awarded a just and reasonable compensation and the same does not require interference



9. Heard the learned counsel appearing on both sides and perused the materials available on record.

10. The Hon'ble Supreme Court of India has recently decided the issue regarding the driver of the vehicle has no endorsement to drive the vehicle in **Civil Appeal NO.5826 of 2011 in Mukund Devangan Vs. Oriental Insurance Company Limited**, wherein it has been held as follows:

"The effect of amendment of Form 4 by insertion of 'transport vehicle' is related only to the categories which were substituted in the year 1994 and the procedure to obtain driving license for transport vehicle of class of 'light motor vehicle' continues to be the same as it was and has not been changed and there is no requirement to obtain separate endorsement to drive transport vehicle, and if a driver is holding license to drive light motor vehicle, he can drive transport vehicle of such class without any endorsement to that effect".

11. In view of the recently delivered judgment of the Hon'ble Supreme Court of India cited supra, there is no infirmity in the order passed by the Tribunal and the same is confirmed. The amounts awarded under all the heads are also just and reasonable and the same does not require interference at the hands of this Court.

12. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 29.04.2010 made in M.C.O.P.No.77 of 2008 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court No.II, Pudukkottai, is hereby confirmed. The appellant/Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of six weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the first respondent/claimant is permitted to withdraw the award amount with proportionate interests and costs without filing formal permission petition before the Tribunal. No Costs. Consequently, connected Miscellaneous Petition in M.P.(MD) No. 1 of 2011 is closed.

Sd/-  
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar



To,

The Motor Accidents Claims Tribunal,  
Additional District Court, Fast Track Court No.II,  
Pudukkottai.

Copy to

The Record Keeper, V.R. Section,  
Madurai Bench of Madras High Court,  
Madurai.

+1cc to Mr.J.S.Murali, Advocate Sr.No.71006  
+1cc to Mr.D.R.Murugesan, Advocate Sr.No.70800

CM

VB/MR/KKR/SAR1/30.08.2017/4P/5C

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and  
M.P. (MD) No.1 of 2011  
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