

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.1921 of 2015
and M.P.No.1 of 2015

The Divisional Manager,
Oriental Insurance Co.Ltd.,
Office at No.29B,
Jambubala Complex,
Arcot Road, Vellore.

... Appellant/2nd Respondent

Vs

1.Meera Ammal

2.Suguna

3.Saravanan ...Respondents 1 to 3/Claimants 1 to 3

4.The Proprietor,
M/s.Kamadgiri Plantation Limited
Old No.82, New No.72
Krishna Takies Road,
Indira Nagar, Erode-3.

...4th Respondent/1st
Respondent

Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 31.03.2015 made in MCOP No.37 of 2010 on the file of the Motor Accidents Claims Tribunal (I Additional District and Sessions Court), Vellore.

For Appellant : Mr.D.Bhaskaran

For Respondents : Mr.C.Prabakaran for R1 to R3

JUDGMENT

The case in brief, is as follows:

On 10.11.2009 at about 09.30 a.m., the deceased Subramani was waiting opposite to Kali Temple on the Vellore - Chennai NH Road to cross the road. At that time the car bearing Reg.No.TN-33-AA-1941, belonging to the fourth respondent herein and insured with the appellant Insurance Company, came

in a rash and negligent manner at high speed and dashed against the deceased. Due to the said impact, the deceased sustained grievous injuries all over the body. He was admitted in the Walaja Government Hospital and subsequently he died. The legal heirs of the deceased filed a claim petition before the Tribunal claiming a sum of Rs.20,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.4,65,000/- with interest at the rate of 7.5% per annum from the date of petition.

2.Challenging the award of the Tribunal, this Civil Miscellaneous Appeal has been filed by the Insurance Company.

3.The learned counsel for the appellant Insurance Company has not disputed the quantum of compensation awarded by the Tribunal. He mainly emphasised that the Tribunal has erred in directing the Insurance Company to pay the compensation, without giving liberty to recover the same from the owner of the vehicle, since the fact remained that the driver of the car was not possessing the valid driving licence at the relevant point of time.

4.The learned counsel for the respondents 1 to 3 / claimants has submitted that the Tribunal has correctly considered the materials and evidence and has awarded the just, fair and reasonable compensation and hence the same does not require any interference in the hands of this Court.

5.Heard the learned counsel for the appellant and the learned counsel for the respondents 1 to 3 / claimants and perused the materials available on record carefully and meticulously.

6.Considering the materials and evidence available on record, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the car and the said finding is not disputed by both sides. With regard to non-possession of valid driving licence by the driver of the car, the official of the Insurance Company has been examined before the Tribunal as R.W.1. He deposed before the Tribunal that the driver of the car was not possessing the valid driving licence on the date of accident. R.W.2-Junior Assistant of RTO Office, has also been examined with regard to this aspect. He deposed before the Tribunal that on a perusal of the records maintained in their office, the information about the issuance of driving licence to Vidhyakaran, the driver of the car, did not found place. The letter issued by their office has been marked as Ex.P3. But the Tribunal has proceeded to observe that it is not a fundamental breach that has contributed to the cause of accident. No further discussion has been made by the Tribunal about this aspect. In view of the deposition of R.W.2, it is

clear that the RTO Office has not issued driving licence to the driver of the car in question. Thus, there is violation of policy conditions on the part of the driver of the car.

7.In these circumstances, while confirming the quantum of compensation awarded by the Tribunal, this Court deems it fit to direct the appellant Insurance Company to pay the compensation to the claimants and thereafter recover the same from the owner of the vehicle, the fourth respondent herein, in accordance with law.

8.The Civil Miscellaneous Appeal is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

9.The appellant Insurance Company is directed to deposit the compensation amount with interest, as ordered by the Tribunal, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the respondents 1 to 3 / claimants are permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar

//True Copy//
Sub Assistant Registrar

KM

To

1.The I Additional District and Sessions Judge,
Motor Accidents Claims Tribunal, Vellore.

2.The Section Officer,
VR Section, Madras High Court.

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.86794
+1cc to Mr.D.Bhaskaran, Advocate, S.R.No.86389

C.M.A.No.1921 of 2015
and
M.P.No.1 of 2015

VBA(CO)
CB(28/07/2020)