

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2019

CORAM :

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY
C.M.A.No.264 of 2013
and M.P.No.1 of 2013

United India Insurance Company Ltd.,
No.261, J.N.Street, Puducherry - 1. ... Appellant/2nd Respondent

Vs

1. Chokkalingam (died)
2. Maheswari W/o.Chokkalingam ...2nd Respondent/2nd Petitioner
3. Sundari D/o.Chokkalingam ...3rd Respondent/3rd Petitioner
4. Thirunavukkarasu S/o.Chokkalingam
...4th Respondent/4th Petitioner
5. A.Jaya Murthy Raja S/o.Ayyanaar
... 5th Respondent/1st Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree made in MCOP No.1419 of 2005 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Puducherry dated 31.08.2012.

For Appellant : Mr.G.Udayasankar

For Respondents : R1 - died
R2 to R4 No appearance
R5 Remained exparte before Tribunal

J U D G M E N T

The instant appeal has been filed by the Insurance company challenging the order dated 31.08.2012 passed in M.C.O.P.No.1419/2005, on the file of Motor Accidents Claims Tribunal/Principal District Judge, Puducherry.

Brief facts of the case are as follows:

2. On 14.4.2005 at about 9:15 hrs when the first respondent was proceeding on his bicycle from west to east direction on by pass road, Othavadai street, near light signal,

Villianur, Puducherry a motor cycle bearing registration No.PY-01-Y-8250 came from back side in a rash and negligent manner and knocked down the first respondent's cycle and caused the accident and the first respondent sustained multiple injuries and he was treated for several injuries and he died on 03.07.2006. The second to third respondents preferred a compensation claim before the Motor Accident Claims Tribunal seeking a compensation of Rs.15,00,000/-.

3. The second respondent examined herself as PW1 and Balan who witnessed the accident was examined as PW2. In support of the claim petition Exs.A1 to A9 were marked. Ex.P1-is the copy of the FIR dated 14.04.2005 Ex.P2 - Photo Copy of Registration Certificate for Vehicle No.PY-01-8250 marked through PW1, Ex.A3 Photo copy of Insurance Certificate for vehicle No.PY-01-8250 issued by second respondent, marked through PW1, Ex.A4 Photo copy of Wound certificate of first petitioner issued by Primary Health Centre, Villianur, marked through PW1, Ex.A5 Photo copy of Discharge slip dated 03.05.2005 issued by Government General Hospital, Puducherry marked through PW1, Ex.A6 Photo copy of legal heirs certificate dated 09.07.2007 issued by the Tahsildar, Cuddalore marked through PW1, Ex.A7 Photo coy of Accident Inspection Report issued by Motor Vehicle Inspector, Puducherry marked through PW1, Rough Sketch, Discharge Summary by Govt. General Hospital, O.P. Treatment book by Govt. G.H., Medical Prescriptions, Treatment X'ray were marked as Ex.P1 to Ex.P8 respectively. Datchanmoorthy Motor Vehicle Inspector, Puducherry was examined as R.W.1.

4. After examining various aspects the Tribunal passed an Award dated 31.08.2012 by directing the Appellant insurance company to pay the second to fourth respondents a sum of Rs.80,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation

5. Aggrieved by the Award dated 31.08.2012, the appellant insurance company preferred this appeal questioning the liability.

6. Heard learned counsel for the Appellant. There is no representation on the side of the second to fourth respondents.

7. Learned counsel for the Appellant submitted that the driver who drove the vehicle did not have valid driving license at the time of accident and he was also pleaded guilty and paid the fine before the learned Judicial Magistrate, Alandur. According to the learned counsel for the Appellants, the Tribunal has failed to permit the Appellants to recover the award amount from the owner of the vehicle.

8. This Court has perused the documents, evidences, impugned Award and the submissions of both the learned counsels. The driver of the vehicle was pleaded guilty and paid the fine before the learned Judicial Magistrate, Alandur. The driver pleaded guilty alone is not enough for this Court to come to the conclusion that the driver drove the vehicle without valid driving license. In order to know whether the driver of the insured vehicle who drove the vehicle is having valid driving license at the time of accident, he should have examined before the Tribunal. But he was not examined before the Tribunal. Apart from that the vehicle also got the valid insurance policy, therefore, I do not find any reason to interfere with the award passed by the Tribunal in fixing the liability on the part of the appellant.

9. The Tribunal awarded a sum of Rs.80,000/- as compensation for the injuries sustained by the first respondent but subsequently he died on 03.07.2006. Under these circumstances with regard to the quantum, I do not find any reason to interfere with the award passed by Tribunal.

10. Therefore, this Court does not find any fault in the findings of the Tribunal and is not inclined to interfere with the judgment of the Tribunal. Accordingly, the Civil Miscellaneous Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

dpq

To

The Principal District Court,
Motor Accidents Claims Tribunal,
Puducherry.

+1cc to Mr.G.Udayasankar, Advocate SR.No.10449

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and M.P.No.1 of 2013

PVS (CO)
GMY (22/08/2019)