

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.969 of 2011
and
M.P.Nos.1 and 2 of 2011

The Oriental Insurance Co. Ltd.,
No.12, Katpadi Road, Gudiyattam,
Vellore District.

Rep. by Branch Manager. Appellant/2nd Respondent

.. Vs ..

1. M.Muthukrishnan

2. Muniyammal

3. M.Karunanidhi

4. M.Balasundram

.... Respondents 1-4/Petitioners

5. M.Kupaiah

(R-5 set ex-parte in Lower Court)

...5th Respondent/1st Respondent

PRAYER: Appeal is filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 13.08.2010 made in M.C.O.P.No.185 of 2007 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge, Gudiyattam, Vellore District).

For Appellant : Mrs.R.Sreevidhya

For RR-2 to 4 : Mr.R.Raghul
for Mr.N.Manokaran

For R-5 : Ex-parte

JUDGMENT

The Insurance Company has filed this civil miscellaneous appeal challenging the Judgment and decree dated 13.08.2010 passed by the Motor Accidents Claims Tribunal (Subordinate Judge, Gudiyattam, Vellore District), in M.C.O.P.No.185 of 2007,

on the question of both liability as well as on the quantum.

2. Short facts, leading to the appeal, are as follows:-

On 18.04.2007 at about 4.30 p.m., while the deceased namely, Selvi.Parimala was waiting for bus by standing in the mud road near Kasi Provision Store, Kallapadi Village bus stand, the alleged Tractor bearing Registration No.TN-23-A-7119, which was driven by its driver in a rash and negligent manner, hit against the deceased and as a result of which, she sustained grievous injury and died on the way to CMC Hospital, Vellore. On the death of the said Parimala, the first claimant/father, second claimant/mother and claimants 3 and 4/brothers have filed a claim for compensation of Rs.75,00,000/-. The Tribunal, after considering both oral and documentary evidence adduced on either side, awarded a sum of Rs.7,59,152/- with interest at the rate of 6% per annum from the date of claim petition till the date of deposit.

3. Disputing the manner of accident, the learned counsel appearing for the appellant-Insurance Company has contended that on the date of the accident, the driver of the Tractor viz., R.W.3 does not have any valid licence and hence, prayed for pay and recovery and also submitted that the quantum arrived at by the Tribunal is on the higher side.

4. Per contra, the learned counsel appearing for claimants/respondents 1 to 4 herein has contended that the deceased was working as a Head Master in Kallapadi Primary School and her Salary Certificate was marked as Ex.P.6, copy of Pay bill was marked as Ex.P.8 and copy of Salary Acquittance was marked as Ex.P.9. Therefore, the award passed by the Tribunal does not call for any interference by this Court.

5. It is seen that the driver of the Tractor was examined as R.W.3 and he has deposed that the claimant has got driving licence at Chennai Valasaravakkam RTO Office bearing driving licence No.RDH-01/014655/2007 and he has also got driving licence bearing No.688/TN-32-V/1990. R.W.4, who was working as a Junior Assistant in the office of the Motor Vehicle Inspector, in his evidence has deposed that R.W.3 has got valid driving licence and subsequently renewed and the same was marked as Ex.R.4. The Tribunal has taken into consideration the factum that R.W.3 was having valid driving licence. However, non renewal of the application is only due to the inaction on the part of the officers of the RTO Office. For the reasons best known, the Junior Assistant, who was examined as R.W.4 from the RTO office, has not produced the renewal application form. On the above factual ground, the Tribunal has drawn adverse inference against the officers of the RTO office and held that

R.W.3 has got knowledge and skill to drive the Tractor, since he had valid driving licence and the delay in renewal is only on the part of the officers of the RTO office and hence, the Insurance Company is jointly and severally liable to pay compensation to the claimants.

6. Considering the above facts and circumstances of the case, I do not find that the reasonings given by the Tribunal is erroneous. Accordingly, the finding given by the Tribunal that Insurance Company is liable to pay compensation need not be interfered with in the appellate stage. Taking into consideration the fact that the deceased was working as a Head Master in the Government Primary School and also taking note of the salary as mentioned in Ex.P.6-Salary Certificate and Ex.P.8-copy of Salary Acquittance, the quantum arrived at by the Tribunal cannot be termed as excess.

7. In this view of the matter, the award of Rs.7,59,152/- passed by the Tribunal under various heads is found to be just and reasonable and hence, the quantum of compensation awarded by the Tribunal cannot be said to be excessive, warranting interference and therefore, the appeal is liable to be dismissed.

8. In the result,

[i] The Civil Miscellaneous Appeal is dismissed and the award dated 13.08.2010 passed by the Motor Accidents Claims Tribunal, V Judge, Court of Small Causes, Chennai, in M.C.O.P.No.185 of 2007, is hereby confirmed. No costs. Consequently, connected Miscellaneous Petitions are closed.

[ii] If the award amount with accrued interest has not been deposited, the appellant-Insurance Company is directed to deposit the entire award amount along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs, less the amount already deposited, if any, to the credit of M.C.O.P.No.185 of 2007 on the file of the Motor Accidents Claims Tribunal, (Subordinate Judge, Gudiyattam, Vellore District), within a period of eight weeks from the date of receipt of a copy of this Judgment.

[iii] On such deposit, the respondents 1 to 4 herein/claimants are permitted to withdraw the award amount along with interest and costs, as apportioned by the Tribunal.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

Jr1

To

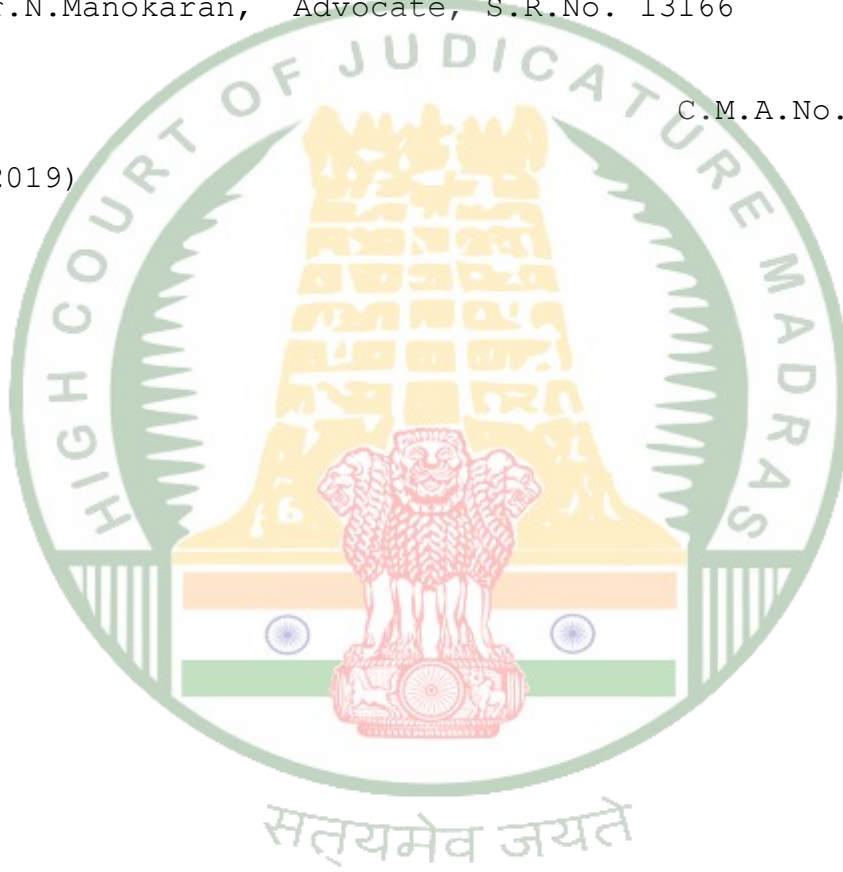
1. The Subordinate Judge,
The Motor Accidents Claims Tribunal,
Gudiyattam, Vellore District.
2. The Section Officer,
V.R. Section, High Court,
Madras.(2 Copies)

+1cc to Mr.R.Sreevidhya, Advocate, S.R.No. 14060

+1cc to Mr.N.Manokaran, Advocate, S.R.No. 13166

C.M.A.No.969 of 2011

MR(CO)
GN(28/03/2019)



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