

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1285 of 2013

United India Insurance Co. Ltd.,
No.90/C-4, Balakrishnan Mandapam Road,
Mettupalayam Main Road,
Periyanaickenpalayam,
Coimbatore-641020.

... Appellant/3rd Respondent

..Vs..

1.R.Jayanthi

2.Ramathal

...Respondent 1&2/
Claimants 1 & 2

3.U.Murali

4.S.Soundararajan

...Respondents 3 & 4/
Respondents 1 & 2

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree dated 30.09.2011 made in MCOP.No.489 of 2009 on the file of the Motor Accident Claims Tribunal (I ADJ) at Coimbatore

For Appellant : Mrs.I.Malar

For Respondents 1, 2 & 4: No appearance

R3-died

JUDGMENT

(This Appeal has been taken up for hearing through Video Conferencing)

This appeal has been filed by the Appellant insurance company challenging the award dated 30.09.2011 passed by the Motor Accident Claims Tribunal (First Additional District Judge, Coimbatore) in MCOP.No.489 of 2009.

2. The Appellant has challenged the award on the ground that they are not liable to compensate the claimants, since the deceased who drove the motor cycle at the time of the accident did not have a valid driving licence.

3. A person by name Ramamurthy died on 14.12.2008 as a result of an accident which took place on 08.12.2008 caused by

an offending vehicle (Hero Honda Passion Plus bike) bearing registration No.TN38-AJ-6888 driven by the third respondent, owned by the fourth respondent and insured with the Appellant while he was riding his motor cycle bearing registration No.TN37-1557.

4. The claimants who are the dependents of the deceased preferred a claim before the Motor Accident Claims Tribunal in MCOP.No.489 of 2009 seeking compensation against the third and fourth respondents as well as the Appellant.

5. The Motor Accident Claims Tribunal by its Award dated 30.09.2011 directed the third and fourth respondents as well as the Appellant jointly and severally to pay a sum of Rs.6,80,000/- as compensation to the claimants which is detailed hereunder:

Heads	Award Amount (Rs.)
Loss of Dependency	5,40,000/-
Loss of consortium	15,000/-
Love and affection	30,000/-
Mental Agony	30,000/-
Pain and Suffering	15,000/-
Medical Expenses	41,000/-
Funeral Expenses	5,000/-
Other Expenses	4,000/-
Total	6,80,000/-

6. Heard Mrs.I.Malar, learned counsel for the Appellant. Despite of service of notice on the respondents 1, 2 & 4, there is no representation on their side. The third respondent is also reported dead.

7. Before the Tribunal, the claimants have filed twelve documents namely Ex.P1 to Ex.P12 and two witnesses were examined namely the first respondent/claimant herself as PW1 as well as an eye-witness to the accident as PW2. On the side of the Appellant, two documents were filed namely Ex.R1 & Ex.R2 and one witness was examined as RW1.

8. This Court has perused and examined the impugned award as well as the materials and evidence available on record.

9. The contention raised by the Appellant insurance company in the grounds of appeal is that the deceased did not hold a valid driving licence at the time of the accident. Excepting for stating that the deceased did not hold a valid driving licence, the Appellant has not sent any notice to the owner of the insured vehicle calling upon him to produce a copy of the driving licence of the deceased who was the rider of the vehicle at the time of the accident. As seen from the oral and documentary adduced by the claimants, there is also no admission made by PW1 and PW2 that the deceased was not possessing a driving licence. Therefore, the Tribunal has rightly not granted pay and recovery rights to the Appellant insurance company as they have not been able to establish that the deceased was not possessing a driving licence at the time of the accident.

10. For the foregoing reasons, this Court is of the considered view that there is no merit in this Appeal. Accordingly this Appeal shall stand dismissed. The Appellant insurance company as well as the fourth respondent jointly and severally directed to deposit the award amount, after deducting the amount already deposited, if any, together with interest from the date of claim till the date of deposit and cost as assessed by the Tribunal, to the credit of MCOP.No.489 of 2009 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the first and second respondents are permitted to withdraw their respective shares of award amount along with accrued interest lying to the credit of MCOP.No.489 of 2009 by filing appropriate application. No costs.

Sd/-

Asst.Registrar (CS I)

/true copy/

Sub Asst. Registrar

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To

1. The I Additional District Judge,
Motor Accidents Claims Tribunal
Coimbatore.

Copy to:

The Section Officer

V.R.Section, High Court of Madras.

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