

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 14.07.2020
CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3277 of 2010
and
MP No.1 of 2010

The Divisional Manager,
United India Insurance Co. Ltd.,
No.13-A, Nethaji Road,
Manjakuppam,
Cuddalore.

...Appellant/2nd Respondent

vs.

1.G.Valliyammal
2.G.Rani
3.G.Aboorvam
4.G.Amudha

: Resppondent 1 to 4/Petitioner

5.A.Mani

: 5th Respondent/ 1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 17.11.2009 made in M.C.O.P. No.1957 of 2006 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Cuddalore.

For Appellant : Mr.S.Arun Kumar

For Respondents : Not ready in notice
reg. R1 to R5

JUDGMENT

(This appeal was taken up for hearing through Video conferencing)

This appeal has been filed by the Insurance Company challenging the award dated 17.11.2009 passed by the Motor Accidents Claims Tribunal, Principal District Judge, Cuddalore in MCOP No.1957 of 2006.

Brief facts leading to the filing of the Civil Miscellaneous Appeal :

2. On 23.03.2006, a person by name S.Govindan was travelling in a Minidoor vehicle bearing Registration No.TN-31-M-4744 and due to the rash and negligent driving by the Driver of the said vehicle, it got capsized. As a result, S.Govindan

deceased sustained grievous injuries and was taken to the Government Kamaraj Hospital, Chidambaram and on 24.03.2006, he succumbed to his accidental injuries.

3. The Legal Representatives of the deceased viz., 1 to 4 respondents in this appeal preferred a claim before the Motor Accidents Claims Tribunal Principal District Judge, Cuddalore, against the owner of the said vehicle as well as the Appellant Insurance Company which is the insurer seeking a compensation of Rs.10,00,000/- for the death of S.Govindan.

4. The Motor Accidents Claims Tribunal by its award dated 17.11.2009 directed the Appellant / Insurance Company as well as the 5th respondent jointly and severally to pay the respondents 1 to 4 a sum of Rs.2,05,000/- with interest at 6% per annum from the date of claim till the date of realization. Out of the total compensation, the Tribunal determined the amount payable to the first claimant being the Wife of the deceased at Rs.58,750/-, the second, third and fourth claimants being the Sons and Daughter of the deceased respectively at Rs.48,750/- each.

5. Aggrieved by the award dated 17.11.2009 passed by the Motor Accidents Claims Tribunal, Principal District Judge, Cuddalore in MCOP No.1957 of 2006, the Appellant / Insurance Company has preferred this appeal.

6. Heard Mr.S.Arun Kumar, learned counsel for the appellant.

7. The grounds raised by the Appellant / Insurance Company in this appeal are a) The Driver of the insured vehicle did not possess a valid Driving Licence to drive the goods vehicle and b) they have also challenged the award on the ground that the deceased was an unauthorised passenger in a goods vehicle and therefore, the claimants are not entitled for compensation.

Discussion :

8. The Tribunal under the impugned award has considered both the defences raised by the Appellant/ Insurance Company. Insofar as the Driving Licence is concerned, the Tribunal has held that LMV licence which is marked as Ex.P6 is sufficient for claimants to receive compensation, despite the fact that the Driver of the insured vehicle did not possess the Badge that is required to drive a goods vehicle. It is now settled law, as per the decision of the Hon'ble Supreme Court in the case of Mukund Dewangan versus Oriental Insurance Company Limited reported in 2016 4 SCC 298 that a Badge is not mandatory when the weight of the vehicle is below 7500kg. separately for the purpose of seeking compensation before the Motor Accidents Claims Tribunal. Therefore, the ground raised by the

Appellant / Insurance Company insofar as the driving of the goods vehicle without the badge is unsustainable.

9. Insofar as the second ground raised by the appellant is concerned viz., the deceased was an unauthorised passenger in a goods vehicle and the Tribunal has held that the said defence raised by the Appellant / Insurance Company has not been proved with proper evidence. This Court has also perused and examined the materials and evidence available on record before the Tribunal and after considering the same, this Court is of the opinion that the Tribunal has rightly rejected the said contention of the Appellant / Insurance Company. Further, the accident happened in the year 2006 and the accident has also not been disputed by the Appellant / Insurance Company. This being the case, no useful purpose will be served if the amount awarded is interfered with at this stage, that too after a period of almost sixteen years from the date of the accident that too when the award amount is not a very huge sum. The Tribunal has rightly held that the Insurance Company was unable to establish through any proper evidence that the claimant was an unauthorised passenger in a goods vehicle.

Conclusion :

10. For the forgoing reasons, this Court is of the considered view that there is no merit in this appeal and the Civil Miscellaneous Appeal shall stand dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11. The Appellant / Insurance Company is directed to deposit the entire award amount awarded by the Tribunal together with interest at 6% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P. No.1957 of 2006, on the file of the Principal District Judge, Motor Accidents Claims Tribunal Cuddalore, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the first to fourth respondents / claimants through RTGS, within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vsi2

To

The Motor Accidents Claims Tribunal,
Principal District Judge,
Cuddalore.

Copy to: The Section Officer,
V.R. Section, High Court of Madras,
Chennai - 104.

C.M.A.No.3277 of 2010

SVI (CO)
CSR 23.04.2021



WEB COPY