

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2020

CORAM:

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.NO.2659 OF 2012

AND

M.P.NO.1 OF 2012

Divisional Manager,
The New India Assurance Co. Ltd.,
having their office at No.42, Big Street,
Thiruvannamalai.

... Appellant/
3rd Respondent

vs.

1.Shajhan @ Shajakhan

2.Begam

3.Seenuvasan,
S/o.Murthy

4.Kesava Reddy

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 8th day of October, 2010 made in M.C.O.P.No.3 of 2008 on the file of the Motor Accident Claims Tribunal (District Court), Tiruvannamalai.

For Appellant : Mr.J.Chandran

For Respondents : R1 & R2 - Insufficient Address
R3 - No such address
R4 - served - no appearance

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JUDGMENT

(This appeal was heard through the Video Conferencing)

This appeal has been filed by the Appellant Insurance Company challenging the Award dated 08.10.2010 passed by the Motor Accident Claims Tribunal, District Judge, Tiruvannamalai, in M.C.O.P.No.3 of 2008.

2.Heard Mr.J.Chandran, learned counsel for the Appellant. Since this Court is confirming the Award, notice to the respondents is dispensed with.

3.The Motor Accident Claims Tribunal under the impugned Award has directed the Appellant Insurance Corporation to pay the claimants, who are the respondents 1 and 2 herein, a compensation of Rs.1,98,000/- together with interest and cost for the death of their minor son Salim as a result of an accident on 26.09.2007 caused by a vehicle insured with the Appellant.

4.The details of the compensation awarded by the Tribunal under the impugned Award are as follows:

Pecuniary loss	-	Rs.1,75,000/-
Loss of love and affection (Rs.10,000/- each x 2)	-	Rs. 20,000/-
Funeral expenses	-	Rs. 2,000/-
Transportation	-	Rs. 500/-
Damages to clothings	-	Rs. 500/-
Total		Rs.1,98,000/-

5.The claimants are the parents of the deceased minor boy Salim. The involvement of the vehicle as well as the cause of the accident as held by the Tribunal has not been disputed by the Appellant Insurance Company as seen from the evidence available on record. The only issue they have raised in this appeal is that the vehicle bearing Registration No.AP-03-U-0275 which was the cause of the accident did not possess a valid permit to drive within the State of Tamil Nadu where the accident had happened.

6.Before the Tribunal, the claimants have filed 5 documents which were marked as Exs.P1 to P5 and one witness was examined on their side namely, Thiru.Shajakhan, father of the deceased as PW1. On the side of the Appellant Insurance Company, two documents were filed which were marked as exhibits namely R1 and R2.

7.The Tribunal under the impugned Award has duly considered the contention raised by the Appellant Insurance Company. The Tribunal has held based on the evidence available on record that the Appellant Insurance Company has not been able to establish that the subject vehicle was not authorised to ply within the

State of Tamil Nadu. In the impugned Award, the Tribunal has observed the following in paragraph No.9:

"9.....It is seen from the evidence of the RW1, Rakesh Madhukar Babu that the vehicle is having valid Permit and it is usual practice for the trade and commerce vehicle whenever they entered the other neighbouring State, they can pay necessary fees to the concerned Regional Transport Office located at the bordered and paying the fees for permit to travel in the neighbouring State they can ply the vehicle in the neighbouring state."

8. Therefore, even though, the subject vehicle was registered in the State of Andhra Pradesh and was having Andhra Pradesh Registration number, it cannot be said that the vehicle cannot ply in the State of Tamil Nadu. It is sufficient that for plying the subject vehicle in the State of Tamil Nadu, it is enough if the necessary charges are paid. The Appellant Insurance Company as seen from the evidence available on record has not been able to establish before the Tribunal that the necessary charges were not paid by the owner/driver of the vehicle bearing Registration No.AP-03-U-0275 for plying the vehicle within the State of Tamil Nadu. The claimants have also taken a consistent stand that the vehicle was having a permit to ply within the State of Tamil Nadu. When there is no conclusive evidence placed by the Appellant Insurance Company before the Tribunal to prove that the subject vehicle did not have the valid permit to ply within the State of Tamil Nadu, the Tribunal has rightly rejected the contention of the Appellant. This Court does not find any infirmity in the findings of the Tribunal.

9. Insofar as the second contention raised by the Appellant, with regard to the quantum of compensation is concerned, there is no scope for interference for the following reasons:

(a) The deceased was a minor boy aged 4 years at the time of the accident. The parents are the only legal heirs of the deceased minor boy. The accident happened in the year 2007. The Tribunal has awarded only a sum of Rs.1,98,000/- under various heads. The compensation awarded by the Tribunal under various heads as indicated in the fourth paragraph of this judgment cannot be considered to be excessive as alleged by the Appellant Insurance Company.

10. For the foregoing reasons, this Court is of the considered view that there is no merit in this appeal.

11. Accordingly, the appeal shall stand dismissed. The Appellant Insurance Company is directed to deposit the amount

awarded by the Tribunal, after deducting the amount already deposited if any, together with interest at the rate of 7.5% p.a. from the date of claim till the date of realization to the credit of M.C.O.P.No.3 of 2008, on the file of the Motor Accidents Claims Tribunal, District Judge, Tiruvannamalai, 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 along with accrued interest lying to the credit of M.C.O.P.No.3 of 2008 to the bank account of claimants/respondents 1 and 2, through RTGS, within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

pam

To

1. The Motor Accidents Claims Tribunal,
District Judge, Tiruvannamalai.

Copy To

The Section Officer,
Vernacular Section,
Madras High Court.

+1cc to Mr.J.Chandran, Advocate, S.R.No.31085

C.M.A.No.2659 of 2012

SJ(CO)
CS/06/05/2021

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