

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10-03-2020

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A. No.2604 of 2015

And

M.P.No.1 of 2015

Reliance General Insurance Company Ltd.,
No.570, Rectified House,
Naigaum Cross Road,
Wadala (via),
Mumbai.

... Appellant/Respondent No.3

Vs.

1.Krishnaveni	...	Respondent-1/Petitioner-1
2.K.Vijayalakshmi	...	Respondent-2/Petitioner-2
3.M.Parameswari	...	Respondent-3/Petitioner-3
4.M.Subramani	...	Respondent-4/Petitioner-4
5.Pandiyar	...	Respondent-5/Respondent-1
6.Perumal	...	Respondent-6/Respondent-2
7.Saraswathy	...	Respondent-7/Respondent-4

The Civil Miscellaneous Appeal is preferred under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 30.03.2015 passed in M.C.O.P.No.916 of 2008 on the file of the learned II Additional District and Sessions Judge, II Additional District and Sessions Court-cum-Motor Accidents Claims Tribunal, Tiruppur.

For Appellant : Mr.S.Arunkumar

For Respondents-1to4 : Mr.M.Mohideen Pitchai

WEB COPY J U D G M E N T

The unfortunate fatal accident occurred on 04.05.2008 at 06.30 P.M., in Dharapuram-Ottanchathiram Highways at Salakkadai near Karasakkattuthottom.

2. On account of the accident, the deceased died after two days while he was taking treatment in the Hospital, who was aged about 55 years at the time of accident and his occupation

was Sheep Firm Owner. The Moolanur Police Station registered a case in Crime No.135 of 2008 under Sections 279, 337 and 304 (A) of IPC.

3. The Tribunal adjudicated the issues and found that the factum regarding the accident was established by the claimants and the insured is made liable to pay compensation. The existence of policy was also proved through documents. However, the Tribunal granted compensation of Rs.6,46,000/- and ordered for pay and recovery in view of the fact that the rider of the two wheeler was not in possession of a valid license. Thus, the Tribunal rightly granted pay and recovery with reference to Section 149 (4) of the Motor Vehicles Act, 1988. However, the said order was not drawn in the decree and therefore, the learned counsel for the appellant made a submission that unless the pay and recovery is find place in the decreetal order, they may not be in a position to file an execution petition against the owner of the insured vehicle.

4. As far as the quantum of compensation is concerned, though the appellant has raised certain grounds, this Court has no role to consider the same in view of the fact that there are four claimants and they are all dependents. The deceased was the sole breadwinner of the family. The quantum of compensation awarded by the Tribunal is Rs.6,46,000/- and under these circumstances, this Court do not find that the quantum of compensation awarded by the Tribunal is exorbitant or perverse. Thus, this Court is not inclined to interfere with the quantum of compensation awarded by the Tribunal. However, the pay and recovery ordered by the Tribunal is to be incorporated in the decreetal order to be issued by this Court in the present Civil Miscellaneous Appeal.

5. Accordingly, the quantum of compensation awarded by the Tribunal is confirmed and the pay and recovery ordered by the Tribunal is also confirmed. However, the order of pay and recovery is to be incorporated in the decreetal order to be issued by this Court in the present Civil Miscellaneous Appeal. In all other respects, the award and decree dated 30.03.2015 passed by the learned II Additional District and Sessions Judge, II Additional District and Sessions Court-cum-Motor Accidents Claims Tribunal, Tiruppur in M.C.O.P.No.916 of 2008 is confirmed. Consequently, C.M.A.No.2604 of 2015 stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

6. The Award amount has already been deposited and 75% of the same had been withdrawn by the claimants. Thus, the respondents/claimants are permitted to withdraw the balance compensation amount with accrued interest at the rate of 7.5%,

by filing an appropriate petition and as per the apportionment granted by the Tribunal and the payments are to be made only through RTGS. Accordingly, the appellant/Insurance Company is at liberty to file an execution petition before the Competent Court for the purpose of recovering the compensation amount with accrued interest from the owner of the vehicle.

Sd/-

Assistant Registrar(ADI MDU)

//True copy//

Sub Assistant Registrar

Svn

To

The II Additional District and Sessions Judge,
Motor Accidents Claims Tribunal,
Tiruppur.

Copy To
The Section Officer,
VR Section,
High Court, Madras-104.

+1cc to Mr.S.Arunkumar, Advocate SR.No.21757

+2cc to Mr.S.Mohan, Advocate SR.No.21116

CMA No.2604 of 2015

VBA (CO)
GMY (20/11/2020)

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