

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2020

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.2777 of 2015

and

M.P.No.1 of 2015

The Divisional Manager,
The Oriental Insurance Company Limited,
No.238, Arcot Road,
Jambu Bala Complex, 1st floor,
Vellore.

..Appellant/2nd Respondent

Vs.

1.K.Rani
2.K.Devaprasath
3.K.Pushpalatha
4.K.Padma
5.K.Usha
6.R.Ramesh

..... Respondents 1 to 5/Claimants
.... 6th Respondent/1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment & Decree dated 21.08.2013 made in M.C.O.P.No.586 of 2009 on the file of the Motor Accident Claims Tribunal (Principal District Judge), Vellore.

For Petitioner : Mr.M.Krishnamoorthy

For Respondents : Non-appearance for RR1 to 6

सत्यमेव जयते
J U D G M E N T

The Oriental Insurance Company Limited, filed this appeal mainly on the ground that the driver, who was driving the insured vehicle, was possessing a driving license, however without endorsement.

2. The accident occurred on 08.07.2009 at about 6.30 p.m., Katpadi to Gudiyatham Main Road in front of Mahendran House at P.K.Puram Village. The victim died on the way to the hospital. The legal heirs filed a claim petition claiming a sum of Rs.9,00,000/- towards compensation. The Tribunal adjudicated the issues and only ground now raised in the appeal by the Insurance Company is that there is no endorsement to drive the commercial vehicle and the Apex Court settled the issues by stating that on account of defect of non-availability of endorsement to drive the commercial

vehicle, the compensation cannot be denied and further, in such circumstances, the Insurance Company is liable to pay the compensation.

3. This Court is of the considered opinion that a perusal of the findings of the Tribunal reveals that there is no infirmity with reference to the facts and circumstances considered. The application of legal principles is also in consonance with the Judgment of the Supreme Court as well as in accordance with the Motor Vehicles Act and therefore, the quantum of compensation of Rs.4,41,000/- granted by the Tribunal cannot be construed as excess but to be taken as just. This Court is not inclined to interfere with the judgment of the Tribunal and accordingly, the judgment and decree dated 21.08.2013 passed in M.C.O.P.No.386 of 2009 is confirmed and the civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

4. It is brought to the notice of this Court that the award amount had already been deposited. Thus, the respondents/claimants are permitted to withdraw the entire amount with accrued interest by filing appropriate application and the payments are to be made through RTGS.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

ssb

To

1) The Motor Accident Claims Tribunal
(Principal District Judge), Vellore.

2.The Section Officer,
High Court, Madras.

+1cc to Mr.M.Krishnamoorthy, Advocate, S.R.No. 20756

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KJ(CO)
GN(12/05/2021)