

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.07.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.503 of 2012

&

M.P.No.1 of 2012

The Branch Manager,
M/s. United India Insurance Co. Ltd.,
The Branch Office,
No.12/123/1, Javid Street,
Palamner - 517 408

... Appellant/2nd Respondent

..Vs..

1.Munirathinamma

2.Chellamma

3.Narasimman

4.Narayana (Minor)

5.Devaiyani (Minor)

6.Nagappa (Minor)

(Respondents 4 to 6 Minors
represented by Mother

& NF 1st Respondent)

... Respondents 1 to 6/Claimants

7.Sri.A.Anandappa

...7th Respondents/1st Respondent

(7th respondent ex parte in lower
court and hence notice may be
dispensed with)

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and decree in MCOP.No.710 of 2007 dated 05.07.2011 on the file of the Motor Accident Claims Tribunal, Principal District Court, Krishnagiri.

For Appellant

: Mr.Rajadurai
for Mr.N.Vijayaraghavan

For Respondents 1 to 6

: M/s.Mukund & Pandiyan
R7 - Exparte

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 05.07.2011 passed by the Motor Accident Claims Tribunal, Principal District Court, Krishnagiri in MCOP.No.710 of 2007.

2. The Appellant insurance company has filed this appeal on the ground that (a) the driver of the insured vehicle did not possess the necessary badge endorsement in his driving licence to enable him to drive an auto and (b) they have also challenged the quantum of compensation awarded by the Tribunal.

3. Heard Mr.Rajadurai, learned counsel representing Mr.N.Vijayaraghavan learned counsel for the Appellant and Mr.Mukund & Pandiyan, learned counsel for the respondents 1 to 6. The seventh respondent remained exparte both before the Tribunal as well as this Court.

4. The details of the award passed by the Tribunal in favour of the respondents 1 to 6/claimants are as follows:

Heads	Award Amount (Rs.)
Loss of dependency	3,24,000/- (3,000 x 12 x 9)
Loss of consortium	10,000/-
Loss of estate	10,000/-
Transport & Funeral Expenses	5,000/-
Correct Total	3,49,000/-
Calculation mistake of Rs.10,000/- arrived by the Tribunal	3,59,000/-

5. Before the Tribunal, the claimants have filed four documents which were marked as Ex.A1 to Ex.A4 and one witness was examined viz., Munirathinamma as PW1. On the side of the Appellant insurance company, three documents were filed which were marked as Ex.B1to Ex.B3 and two witnesses were examined namely RW1 and RW2.

6. Eventhough in the grounds of the appeal, the Appellant has questioned the quantum of compensation awarded to the

claimants by the Tribunal, the learned counsel for the Appellant restricts his submission only to the Appellant's liability. According to him, the Appellant insurance company is not liable to pay compensation, since the driver of the insured vehicle did not possess a badge endorsement required to drive a transport vehicle which in the instant case was an auto.

7. The issue raised by the Appellant is now well settled by the Hon'ble Supreme Court as held in the case of Mukund Dewangan vs. Oriental Insurance Company Limited reported in (2016) 4 SCC 298 wherein the Hon'ble Supreme Court has held that if the unladen weight of the transport vehicle is less than 7500 Kgs, there is no necessity for a separate badge endorsement in the driving licence and it is sufficient that the driver holds a valid LMV licence. In the case on hand, RW2, the R.T.O official had deposed before the Tribunal that the driver of the insured auto was possessing a valid LMV licence. While that be so, the Tribunal has rightly mulcted the liability on the appellant insurance company under the impugned award.

Conclusion:

8. In view of the settled position of law as observed earlier, there is no merit in this appeal. Accordingly, the appeal shall stand dismissed. There is a typographical error in the total compensation arrived at by the Tribunal i.e., Rs.3,59,000/- instead of Rs.3,49,000/-. In the result, the total compensation of Rs.3,59,000/- is modified as 3,49,000/- due to the typographical error. The Appellant insurance Company is directed to deposit the modified award amount after deducting the amount already deposited, if any, together with interest and costs to the credit of MCOP.No.710 of 2007 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the respondent 1 to 3 are permitted to withdraw their respective shares of award amount along with accrued interest lying to the credit of MCOP.No.710 of 2007 by filing appropriate applications. The respondents 4 to 6 being minors, their respective shares of award amount shall be deposited in a Nationalised Bank as Fixed deposit, till they attain majority. The next friend and mother/first respondent herein is permitted to withdraw the interest once in six months for the welfare of the minors. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Principal District Judge,
Motor Accidents Claims Tribunal,
Krishnagiri.
- 2.The Section Officer
V.R.Section, High Court of Madras.

C.M.A.No.503 of 2012

SV(CO)
GN(21/04/2021)