IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3036 of 2013

Royal Sundaram Alliance Insurance Co. Ltd.,
Coimbatore. ...Appellant/R3 in Trial Court

vs.

1.B.Ravindran
2.Vijayarani
3. Murugan
4. T. Janaki ...Respondents/petitioners 1 and 2 and RR1, 2 in Trial Court

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree dated made in MCOP No.97 of 2009 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge) at Tiruchengode, dated 15.11.2012.

For Appellant : Mr.M.Krishnamoorthy

For Respondents : Mr.C.Munusamy for R1 & R2
R3 & R4 - Exparte

JUDGMENT

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

This appeal has been filed by the Insurance Company challenging the award dated 15.11.2012 passed by the Motor Accidents Claims Tribunal, Subordinate Judge, Tiruchengode in MCOP No.97 of 2009.

2. The appellant / Insurance Company has challenged the award on the ground that they are not liable to compensate the claimants since the driver of the insured vehicle did not possess a valid Driving Licence. They have also challenged the quantum of compensation awarded by the Tribunal under the impugned award.

3. Heard Mr.M.Krishnamoorthy, learned counsel for the appellant and Mr.C.Munusamy, learned counsel for the respondents 1 and 2.

4. Under the impugned award, the Tribunal has rightly granted pay and recovery rights to the appellant for the violation of policy conditions by the insured for allowing the vehicle to be driven by a person, who did not possess a valid Driving Licence.

5. It is seen that as on the date of the accident i.e., 24.04.2009, the driving licence for the insured vehicle got expired, as early as on 30.03.2008. The Tribunal has rightly considered this aspect and has rightly granted pay and recovery rights to the appellant insurance company. It is settled law that in case of policy violation, the insurance company will have to pay the claimants, the compensation amount, assessed by the Tribunal and thereafter recover the same from the insured. The same settled principle has been followed by the Tribunal under the impugned award. Therefore, the first ground raised by the Appellant / Insurance Company viz., non possession of a valid driving licence is unsustainable.

6. Insofar as the quantum of compensation awarded by the Tribunal, under the impugned award is concerned , the Tribunal while assessing the loss of dependency has taken into account the age of the mother of the deceased, who was aged 47 years but the deceased was aged 22 years. The Tribunal has applied 13 multiplier by taking into consideration the age of the mother of the deceased, whereas, the Tribunal ought to have taken into consideration, the age of the deceased, who was aged 22 years and should have applied 18 multiplier. The deceased was a Student doing his third year B.Sc course at the time of the accident and the Tribunal has assessed the notional income of the deceased at Rs.10,000/-p.m. The accident happened on 24.04.2009. If the Tribunal had applied 18 multiplier, the loss of dependency would have been more. The Tribunal has also rightly deducted 50% towards personal expenses of the deceased, since the deceased was a Bachelor at the time of accident. Having applied 13 multiplier instead of 18 multiplier, which is the settled position of law as per the Sarala Verma & Ors vs Delhi Transport Corporation & Another reported in.2009 6 SCC 121, this Court is of the considered view that the challenge to the quantum of compensation made by the Tribunal in this appeal by the Insurance Company is unsustainable as the compensation accorded by the Tribunal is a just compensation.

7. For the foregoing reasons, this Court is of the view that there is no merit and the Civil Miscellaneous Appeal shall stand dismissed. No costs.

8. The Appellant/Insurance Company is directed to deposit the entire award amount as per the award of the Tribunal along with interest and costs after deducting the amount, if any already deposited, to the credit of MCOP.No.97 of 2009 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 amount to the bank account of the claimants as per the ratio of apportionment fixed by the Tribunal through RTGS within a period of two weeks thereafter.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vsi2

To

The Motor Accident Claims Tribunal
The Subordinate Judge
Tiruchengode.

Copy to

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

C.M.A.No.3036 of 2013

vsn II[co]
srg 19/12/2020