

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3563 of 2013
and M.P.No.1 of 2013

Iffco Tokio General Insurance Co. Ltd.,
Thulasi Chambers, 3rd Floor,
No.195, T.V.Samy Road (West),
R.S.Puram, Coimbatore. ...Appellant/2nd Respondent

vs.

1.Mrs.Lakshmi
2.Venkatachalam
3.Vijaya
4.Mr.Krishnan ...1 to 4 Respondents/Petitioners 1 to 4
5.Mr.Kuppusamy
6.Mr.Govindaraj ...Respondents 5 & 6/Respondents 1 & 3

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and decree in M.C.O.P.No.355 of 2008, dated 28.02.2011 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Sankagiri.

For Appellant : Mr.E.Rajadurai
for M/s.N.Vijayaraghavan

For Respondents : Mr.C.Kulanthaivel for R1 to R4
R5 & R6 not known

JUDGMENT

(This appeal was heard through the Video Conferencing)

This appeal has been filed by the Appellant Insurance Company challenging the Award dated 28.02.2011 passed by the Motor Accident Claims Tribunal, Subordinate Court, Sankagiri, in M.C.O.P.No.355 of 2008.

2.Heard Mr.E.Rajadurai, learned counsel for the Appellant and Mr.C.Kulanthaivel, learned counsel for the respondents 1 to 4.

3.The Motor Accident Claims Tribunal under the impugned Award has directed the Appellant Insurance Company to pay the claimants, who are the respondents 1 to 4 a compensation of Rs.3,89,000/- together with interest and cost for the death of

Chinnathambi as a result of an accident caused by a vehicle insured with the Appellant Insurance Company.

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

Pecuniary loss	-	Rs.3,24,000/-
Loss of consortium	-	Rs.25,000/-
Love and affection	-	Rs.30,000/-
Funeral expenses	-	Rs.5,000/-
Transport expenses	-	Rs.5,000/-

Total		Rs.3,89,000/-

5.The Appellant Insurance Company has filed this appeal on the following grounds:

(a)The Tribunal ought not to have passed an award making them liable to compensate the claimants since the rider of the insured motorcycle was not possessing a valid driving license.

(b)The quantum of compensation awarded by the Tribunal is excessive.

6.With regard to the first contention raised by the Appellant Insurance Company, it is settled law that in case the rider of the motorcycle was not possessing a valid driving license, the insurer will necessarily have to pay the claimants and recover the same from the insured. Therefore, the Tribunal has rightly passed an award directing the Appellant Insurance Company to pay the compensation amount to the claimants and recover the same from the insured. Therefore, the first contention raised by the Appellant Insurance Company is rejected by this Court.

7.Insofar as the second contention raised by the Appellant Insurance Company is concerned, the deceased was aged 58 years and was working as power loom employee for various concerns on contract basis. In the claim petition, the claimants have pleaded that the deceased was earning Rs.9,000/- per month at the time of the accident. However, the Tribunal fixed the notional monthly income of the deceased at Rs.4,500/-. The accident happened in the year 2008. Considering the year of the accident, the assessment of notional monthly income of the deceased at Rs.4,500/- cannot be considered to be excessive as alleged by the Appellant Insurance Company. The overall compensation awarded by the Tribunal under various heads as detailed in fourth paragraph of this judgment cannot be considered to be excessive. Therefore, the second contention raised by the Appellant also fails.

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

9.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.355 of 2008, on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Sankagiri, within a period of four weeks from the date of receipt of a copy of this Judgment and recover the same from the respondents 5 and 6. 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.355 of 2008 to the bank account of the respondents/claimants 1 to 4, through RTGS, within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

pam

To

The Motor Accidents Claims Tribunal,
Subordinate Court, Sankagiri.

Copy To

The Section Officer,
Vernacular Section,
Madras High Court.

+1cc to Mr.C.Kulanthaivel, Advocate SR.No.29881

C.M.A.No.3563 of 2013

RLD(CO)
GMY(20/04/2021)