

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1905 of 2014
and M.P.No.1 of 2012

Branch Manager,
Iffco Tokio General Insurance Co. Ltd.,
2nd Floor, North Usman Road, T.Nagar,
Chennai - 17.

...Appellant/2nd Respondent

vs.

1.Vaithegi
2.Minor Mukeshkannan
3.Minor Vaishnavi
(Minors 2nd & 3rd respondents represented
through their Mother and guardian 1st
respondent/1st petitioner)
4.Chandirakasu
5.Lalitha
6.Gnaneshwaran
... Respondent1 to 5/Claimants
...6th Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.185 of 2012, dated 29.04.2013 on the file of the Motor Accidents Claims Tribunal, District Judge, Tiruvarur.

For Appellant : Mr.E.Rajadurai
for M.B.Raghavan

For Respondents : Mr.V.Karnan for R1 to R5
R6 served - NA

JUDGMENT

(This appeal was heard through the Video Conferencing)

This appeal has been filed by the insurance company challenging the Award dated 29.04.2013 passed by the Motor Accident Claims Tribunal (District Judge), Tiruvarur in MCOP.No.185 of 2012.

Brief facts leading to the filing of this Appeal:

2.The main ground raised by the Insurance Company in this appeal is that since the deceased was travelling as a gratuitous passenger in a tractor which is having a seating capacity of only three, the insured has violated the policy condition and therefore, the claimants are not entitled for any compensation. Even though the Insurance Company also questioned the quantum of compensation awarded to the claimants, they have not stated in the grounds of appeal as to how the compensation awarded by the Tribunal is excessive and not a just compensation. Therefore, this Court needs to consider the only issue as to whether the Appellant Insurance Company is liable to compensate the claimants or not.

3.Heard Mr.E.Rajadurai, learned counsel for the Appellant and Mr.V.Karnan, learned counsel for the respondents 1 to 5.

4.Before the Tribunal, on the side claimants three witnesses were examined and ten documents were marked as Exs.P1 to P10. On the side of the respondent, three witnesses were examined and the insurance policy was marked as Ex.R2 by the Appellant Insurance Company and it was marked through the claimants as Ex.P5 and Ex.P7.

5.This Court has perused and examined the subject insurance policy. As seen from the insurance policy, it gives coverage for four persons in the tractor under Policy No.IMT29. In view of the same, the contention raised by the Appellant Insurance Company is unsustainable. With regard to the quantum of compensation awarded to the claimants, the Appellant has not raised any serious dispute over the same and has also not stated as to how the compensation is excessive.

6.The Tribunal under the impugned Award has already granted pay and recovery rights to the Appellant since the driver of the tractor did not possess a valid driving license and the said finding is confirmed by this Court.

7.For the foregoing reasons, this Court is of the considered view that there is no merit in this appeal. Accordingly, this appeal shall stand dismissed. The Appellant Insurance Company is directed to deposit the entire amount awarded by the Tribunal, after deducting the amount already deposited if any, together with interest from the date of the claim till the date of realization and costs to the credit of M.C.O.P.No.185 of 2012 within a period of four weeks from the date of receipt of a copy of this Judgment and recover the same from the owner of the vehicle/sixth respondent. On such deposit being made, the claimants 1, 4 and 5 are permitted to withdraw their respective share from the Award amount as apportioned by the Tribunal by filing appropriate applications. Since the second and third respondents are minors, their respective share of the Award amount shall be deposited in an interest bearing fixed deposit in any Nationalized bank till they attain majority. However, the

accrued interest under the fixed deposit shall be permitted to be withdrawn by their mother/first respondent once in 6 months. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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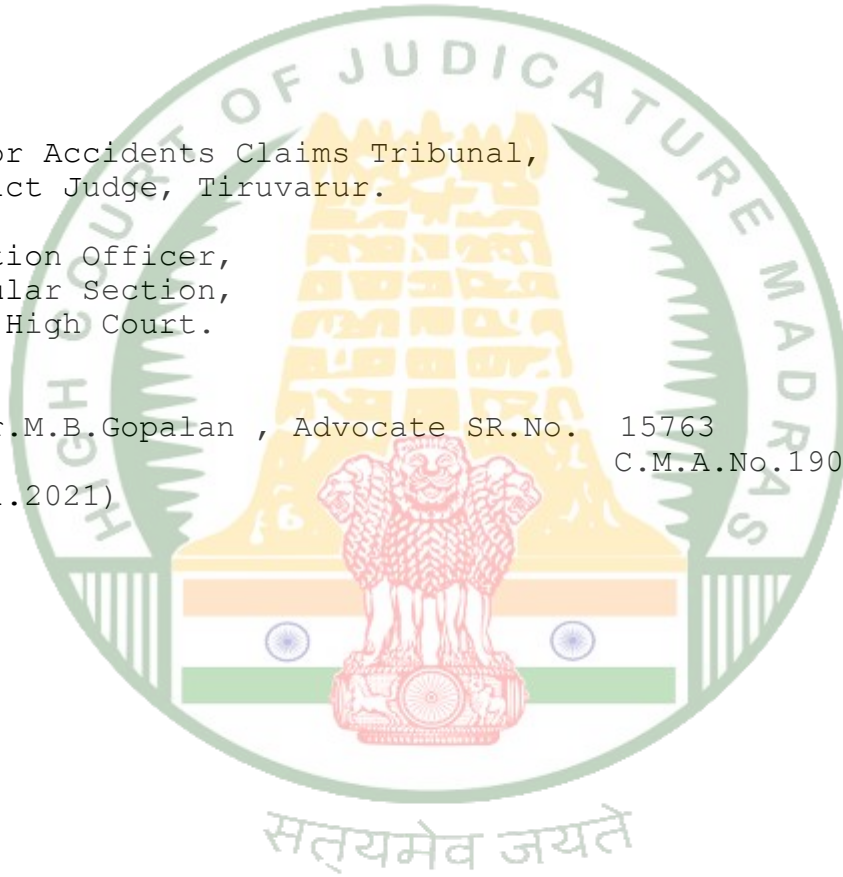
1.The Motor Accidents Claims Tribunal,
District Judge, Tiruvarur.

2.The Section Officer,
Vernacular Section,
Madras High Court.

+lcc to Mr.M.B.Gopalan , Advocate SR.No. 15763

C.M.A.No.1905 of 2014

A.SK(21.01.2021)



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