

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.701 of 2014

The Oriental Insurance Company Limited,
R.V.K.Buildings, 54, Thani Road,
Udumalaipettai.

... Appellant

..Vs..

1. M.Poongodi
2. Rajeswari
3. S.Karthik
4. S.Muruganandam

... Respondents

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 30.08.2013 in MCOP. No.32 of 2011 on the file of the Motor Accident Claims Tribunal (Sub Court), Pollachi.

For Appellant : Mr.K.Vinod

For Respondents: No appearance - served - R1 to R3

Batta with petition due regarding R4

JUDGMENT

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

This appeal has been filed by the Insurance company challenging the award dated 30.08.2013 passed by the Motor Accident Claims Tribunal (Sub Court) Pollachi in MCOP.No.32 of 2011.

2. The only ground raised by the appellant/Insurance company is that the driver of the insured vehicle did not possess the required endorsement in his driving license to drive the goods vehicle.

3. A person by name Suresh kumar died on 30.01.2011 as a result of an accident caused by a mini door auto bearing Registration No.TN 39 X 9220, owned by the 4th respondent and insured with the appellant/insurance company.

4. The respondents 1 to 3 are the dependents of the deceased and they are his father, mother and sister. They have preferred a claim before the Motor Accident Claims Tribunal seeking compensation in MCOP.No.32 of 2011 for the death of Suresh kumar.

5. The Motor Accidents Claims Tribunal, under the impugned award, has awarded a compensation of Rs.6,16,000/- together with interest and costs to the claimants, who are the respondents 1 to 3 in this appeal.

6. The details of the award passed by the Tribunal in favour of the claimants are as follows:

Head	Award passed by the Tribunal (Rs.)
Loss of dependency	5,76,000/-
Loss of love and affection	20,000/-
Funeral expenses	10,000/-
Transportation charges	10,000/-
Total	6,16,000/-

7. Heard MrK.Vinod, learned counsel for the Appellant/Insurance company and there is no appearance on behalf of the respondents 1 to 3/claimants.

8. Admittedly, the insured vehicle, which caused accident, is a mini door Auto bearing Registration No.TN 39 X 9229.The unladen weight of the said mini door auto is less than 7500 Kgs. The driver, who caused accident was possessing a valid LMV. driving license, which was marked as Ex.R1 before the Tribunal. As per the decision of the Hon'ble Supreme Court, in the case of Mukund Dewangam vs. Oriental Insurance Co. Ltd., reported in 2017 (2) TN MAC 145 (SC), wherein the Supreme Court held that there is no necessity for a badge endorsement in a driving license when the unladen weight of the goods vehicle is less than 7500 Kgs. Since the vehicle involved in the accident is admittedly less than 7500 Kgs., the aforesaid decision of the Hon'ble Supreme Court is squarely applicable to the case on hand. Therefore, the Tribunal has rightly held that the appellant/insurance company is liable to compensate the claim of the respondents 1 to 3 for the death of M.Suresh kumar.

9. The Tribunal ought to have deducted 50% towards personal expenses of the deceased as he was a bachelor at the time of the accident, which it has failed to do so. However, since the Tribunal has applied the wrong multiplier of ''16'' instead of ''18'', the overall compensation awarded by the Tribunal is a just compensation in the view of this Court.

10. For the foregoing reasons, the contentions raised by the Appellant/Insurance Company in this Appeal does not deserve any merit. Accordingly, the compensation awarded by the Tribunal under the various heads, does not warrant any interference and the same is confirmed.

11. The Appellant/Insurance company is directed to deposit the award amount, after deducting the amount, already deposited, if any, together with interest, from the date of claim till the date of deposit and costs, as assessed by the Tribunal, to the credit of M.C.O.P.No.32 of 2011 within a period of four weeks from the date of receipt of a copy of this Judgment.

12. On such deposit being made, the Tribunal is directed to transfer the amount to the bank account of the respondents 1 to 3/claimants through RTGS within a period of two weeks thereafter.

13. In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Subordinate Judge, Pollachi.

2.The Section Officer

V.R.Section, High Court of Madras.

C.M.A.No.701 of 2014

PP (CO)

RMP (18/11/2020)

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