

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 03.09.2020

CORAM:

THE HONOURABLE Mr. JUSTICE R.MAHADEVAN

C.M.A.No.1321 of 2017  
and  
C.M.P.No.6866 of 2017

The Divisional Manager,  
The Oriental Insurance Company Limited,  
DO. Puducherry. ... Appellant/2<sup>nd</sup> Respondent  
vs.

1.Lakshmi  
2.S.Ayyappan  
3.S.Sumathi@ Achiyammal ... Respondents/ Petitioners  
4.P.Jothi Ramalingam ... Respondent/1<sup>st</sup> Respondent

Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 10.11.2016 made in MCOP No.3477 of 2014, on the file of the Motor Accidents Claims Tribunal, Principal District Court, Cuddalore.

For Appellant : Mr.Elveera Ravendran  
For Respondents : Mr.B.Sundara Pandiyan (RR1 to 3)  
: No appearance (R4)

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company against the award dated 10.11.2016 made in MCOP No.3477 of 2014, on the file of the Motor Accidents Claims Tribunal, Principal District Court, Cuddalore.

2.The brief facts of the case are as follows:

On 31.08.2014, at about 16.30 hours, the deceased Palani was riding the Hero Splendor Plus motorcycle, bearing Registration No.TN 31 BA 9261 from Meenakshipettai to Kurinjipadi, Cuddalore. When the motorcycle was proceeding near RSR welding workshop, Meenakshipettai, the Tata Ace Goods vehicle, bearing Registration No.TN 31 AC 0606, belonging to the 4th respondent and insured with the appellant/Insurance Company driven by its driver in a rash and negligent manner, hit against the motorcycle. Due to the said impact, the deceased Palani sustained grievous injuries all over the body. Immediately he was admitted in the Hospital but he succumbed to the injuries in

the hospital. Stating that the accident had occurred only due to the carelessness and negligence on the part of the driver of the Tata Ace, the mother, brother and sister of the deceased filed a claim petition seeking compensation of Rs.30,00,000/- before the Tribunal.

3.The Tribunal, considering the pleadings, oral and documentary evidence, held that the accident had occurred only due to the rash and negligent driving of the driver of the Tata Ace belonging to the 4th respondent and directed both the 4th respondent as well as appellant/Insurance Company being insurer of the said Tata Ace to pay a sum of Rs.8,00,000/- with interest at 8% pa from the date of claim petition. Challenging the said award dated 10.11.2016 made in MCOP No.3477 of 2014, granting compensation to the respondents 1 to 3, the appellant/Insurance Company has come out with the present appeal.

4.The learned counsel appearing for the appellant/Insurance Company has contended that on the date of accident, the driver of the Tata Ace belonging to the 4th respondent did not possess valid driving license to drive the vehicle and did not obtain any endorsement or badge to drive the said vehicle. It is further contended that the Tribunal has erred in holding that the appellant is liable to pay compensation, when the driver of the Tata Ace did not have badge or endorsement to drive the vehicle. Thus, the learned counsel submitted that the Tribunal ought to have exonerated the appellant from its liability based on the evidence of R.W.1/officer from the Regional Transport Office and prayed for setting aside the award of the Tribunal.

5.The learned counsel for the respondents 1 to 3 has submitted that the Tribunal has rightly considered the materials and evidence and has awarded the compensation which is just, fair and reasonable and hence the same need not be interfered with by this Court.

6.Heard the learned counsel on either side and perused the records.

7.From the award of the Tribunal, it is seen that as per the evidence of R.W.1/officer from the Regional Transport Office, the driver of the Tata Ace was possessing valid driving license to drive light motor vehicle, ie., LMV non transport vehicle and two wheeler, on the date of accident. But nothing has been elicited from the witnesses as to whether the driver of the Tata Ace vehicle obtained badge or endorsement subsequently. The appellant failed to prove that the driver of the Tata Ace did not possess any badge or endorsement. The Hon'ble Apex Court in the judgment reported in (2017) 14 Supreme Court Cases 663 [Mukund Dewangan Vs. Oriental Insurance Company Ltd.,], held

that when a person is possessing valid driving license to drive light motor vehicle, he can drive all categories of vehicle in the said class including commercial vehicle and there is no necessity to obtain badge or endorsement to drive the commercial vehicle. In view of the above, the award of the Tribunal directing both the 4th respondent/owner of the Tata Ace as well as appellant/Insurance Company to pay compensation to the respondents 1 to 3, is confirmed.

8. With regard to the quantum of compensation, the Tribunal has relied upon the exhibits, evidence of witnesses and all other aspects in a proper perspective and has awarded the compensation under various heads to the claimants. Further, this Court is of the considered view that the amounts awarded towards various heads are reasonable and justifiable and hence the same are confirmed.

9. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

10. The appellant/Insurance Company shall deposit the entire compensation amount, along with interest and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the respondents 1 to 3 / claimants, are permitted to withdraw the same on making proper application before the Tribunal.

Sd/-  
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mtl  
To

1. The Principal District Judge,  
Motor Accidents Claims Tribunal,  
Cuddalore.

2. The Section Officer  
V.R. Section  
High Court, Chennai.

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and  
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