



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 16.12.2020

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD)No.678 of 2009

Oriental Insurance Company Ltd.,
555/1, G.H. Road,
Theni - 625 531.

.. Appellant/2nd Respondent

vs.

1.Kasiammal
2.Chandiran
3.Chinnathurai
4.Murugeswari ..Respondents 1 to 4/Petitioners
5.A.Chithambarathan ...Respondent 5/Respondent 1

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988 against the award dated 30.06.2008 and made in MCOP No.75 of 2006 on the file of the Motor Accident Claims Tribunal, Principal District Court, Tuticorin.

For Appellant : Mr.C.Karthik
For Respondents : R1 and R4 Dismissed-
vide court order dated 10.04.2019
No representation for R2, R3 & R5

J U D G M E N T

This appeal arises out of the award passed by the Motor Accident Claims Tribunal, Principal District Court, Tuticorin in MCOP No.75 of 2006 dated 30.06.2008.

2.Brief facts of the case would run thus:-

The respondents 1 to 4 herein, as legal heirs of the deceased Sudalai, filed the claim petition for a compensation of Rs.5,00,000/-. It is their case that on 22.04.2006, at about 18.00 hours, the deceased was riding his cycle in front of Saveriyar 'Kebi', Saveriyarpuram on Tuticorin-Tiruchendur main road. At that time, a tractor and trailer bearing registration Nos.TN 69-C-3683 and TN-69-C-3687, which came behind the deceased in a rash and negligent manner, dashed against him. As a result, the deceased fell down from his cycle and he was running over by the Tractor and Trailer and he died on the spot.



3.The claim petition was contested by the appellant/Insurance Company on the ground that there was no Fitness Certificate and permit for the vehicle, which are violations of the policy conditions and hence, they cannot be mulcted with the liability to pay compensation.

4.The Tribunal, on appreciation of evidence adduced by the parties, found that the owner of the vehicle has violated the policy conditions and while awarding compensation of Rs.1,58,000/- along with interest at the rate of 6% per annum, directed the appellant/Insurance Company to pay the award amount and thereafter, recover the same from the owner of the vehicle. Aggrieved over the same, the present appeal has been filed.

5.Mr.C.Karthik, learned counsel for the appellant/Insurance Company would urge that the Tribunal has erred in fastening the liability on the appellant. According to the learned counsel, the Tribunal ought to have dismissed the claim petition against the appellant and passed the award only against the owner of the vehicle. Hence, the direction issued by the Tribunal is contrary to law.

6.Though the respondents have been served and their names were printed in the cause list, none appears for them.

7.In the matter on hand, it is not in dispute that the claimants are third parties and sought compensation of Rs.5,00,000/- for the death of Sudalai in a motor vehicle accident that had taken place on 22.04.2006. It has been established before the Tribunal that the appellant was the insurer of the offending vehicle. Ex.R.1 is the copy of the insurance policy. It appears that the appellant examined three witnesses to prove that the policy conditions have been violated by the owner of the vehicle and no fitness certificate is taken for the vehicle at the relevant point of time and he also failed to get permit from the competent authority. Hence, the Tribunal having found that the claimants are third parties and the policy conditions have been violated by the insured, rightly directed the appellant-Insurance Company to pay the compensation first and recover the same from the owner of the vehicle. I find no illegality or irregularity in the decision arrived at by the Tribunal and I find no merits in this appeal. Hence, the appeal is liable to be dismissed.

8.In that view, the Civil Miscellaneous Appeal is dismissed. Since the appeal is dismissed, the appellant/Insurance Company is directed to deposit the entire award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this



order. On such deposit, the claimants are permitted to withdraw the award amount as apportioned by the Tribunal, less the amount already withdrawn, if any, together with proportionate interest and costs. No costs.

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Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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To

- 1.The Principal District Judge,
Motor Accident Claims Tribunal,
Tuticorin.
- 2.The Registrar Judicial,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Record Keeper-2 copies
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

JUDGMENT MADE IN
C.M.A (MD) No.678 of 2009
16.12.2020

KM (19.01.2021) 3P 5C