



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1901 of 2015

1.Kalaivani
2.Vinothini (Minor)
3.Kaviyarasan (Minor)
4.Sindu (Minor) ...Appellants / Claimants
(Petitioners 2 to 4 are minors,
rep. By their next friend
mother the first petitioner)

Vs

1.Duraibabu
2.The Branch Manager,
United India Insurance Co., Ltd.,
P.B.No.172, No.261, J.N.Street,
Puducherry. ...Respondents / Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act against the Award dated 15.06.2015 in MCOP.No.523 of 2009 on the file of the Motor Accident Claims Tribunal, III Additional District Judge Puducherry.

For Appellant : M/s.Sreethi Law Firm
For Respondent 2 : Mr.S.Arun Kumar
For Respondent 1 : Exparte

JUDGMENT

(This case is heard through Video Conferencing)

This civil miscellaneous appeal has been filed challenging the award dated 15.06.2015 passed by the Motor Accident claims Tribunal, III Additional District Judge Puducherry in MCOP.No.523 of 2009.

2. The Appellants/claimants are aggrieved by the findings of the Tribunal exonerating the second respondent Insurance Company from any liability on the following grounds that (a) The driver of the insured vehicle was not possessing a valid and effective driving licence at the time of the accident and therefore, the insured has committed policy violation (b) the Insurance policy Ex.P2 does not give insurance coverage for an unauthorised passenger as in the case on hand the deceased is said to have



been a coolie (employee of the insured) travelling in the mudguard of the insured tractor.

3. Admittedly, as seen from the insurance policy, Ex.P2, it gives insurance coverage only for one person and the word "coolie" is also not found therein. Registration Certificate (Ex.P3) also permits only one person to travel in the insured Tractor, whereas the deceased was not the driver of the tractor, but even according to the Appellants/claimants, he was only a coolie. Registration certificate (Ex.P3) also permits only one person to travel in the insured Tractor whereas the deceased was not the driver of the Tractor but even according to the Appellants/claimants, he was only a coolie employed by the insured and was travelling in the said Tractor in addition to the driver at the time of the accident.

4. It is settled law that an unauthorised passenger travelling in the insured vehicle is not entitled to pay compensation. Since the second respondent has been able to prove before the Tribunal that the deceased was travelling as an unauthorised passenger in the insured vehicle at the time of the accident, the second respondent Insurance Company is not liable to pay compensation to the claimants. The findings of the Tribunal under the impugned award is a correct finding.

5. For the foregoing reasons, there is no merit in this appeal. Accordingly, this civil miscellaneous appeal is dismissed. The first respondent, owner of the vehicle is directed to deposit the amount together with interest and costs as awarded by the Tribunal, if not already deposited to the credit of MCOP.No.523 of 2009 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal shall transfer the share of award amount to the bank account of the first Appellant/first claimant through RTGS within a period of one week thereafter. Since the Appellants 2 to 4/claimants 2 to 4 are minors, their respective share of award amount shall be deposited in interest bearing fixed deposit in any one of the Nationalised banks till they attain majority. The first respondent/first claimant is permitted to withdraw the interest accrued once in six months for the welfare of the minors. If the minors attain majority, it is open for them to file a formal petition to declare them as major. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accident Claims Tribunal,
The III Additional District Judge,
Puducherry.

2.The Section Officer,
V.R.Section,
High Court of Madras.

+lcc to Mr.S.Arunkumar, Advocate, S.R.No.35276

C.M.A.No.1901 of 2015

LN(CO)
RVM(22/11/2021)