



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **18.04.2022**
CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

WEB COPY

C.M.A(MD)No.382 of 2022
and
C.M.P(MD)No.3374 of 2022

Reliance General Insurance Company Limited,
through its Branch Manager,
Sakthi Super Market,
Third Floor, Number 408,
Perundurai Road,
Erode - 638 011. :Appellant/Second respondent

.vs.

1.Seetha : Ist Respondent/Petitioner
2.Raman :2nd Respondent/Ist Respondent
3.Subbiah Pandian
4.Madathi :Respondents 3 and 4/
Respondents 3 and 4

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the award and decree made in M.C.O.P.No.932 of 2016, dated 24.06.2020, on the file of the Motor Accidents Claims Tribunal, Tirunelveli/The Special Sub-Judge dealing with M.C.O.P. Cases, Tirunelveli insofar as the liability to pay compensation and the quantum of compensation awarded are concerned.

For Appellant :Mr.V.Sakthivel

For Respondent-1 :Mr.T.Selvakumaran

JUDGMENT

This Civil Miscellaneous Appeal is directed against the award and decree made in M.C.O.P.No.932 of 2016, dated 24.06.2020, on the file of the Motor Accidents Claims Tribunal, Tirunelveli/The Special Sub-Judge dealing with M.C.O.P. Cases, Tirunelveli insofar as the liability to pay compensation and the quantum of compensation awarded are concerned.



2.The Insurance Company is the appellant herein. The Caveator/first respondent had already entered appearance.The main ground of the Insurance Company against the award passed in M.C.O.P.No.932 of 2016 is that, admittedly on the date of the accident, the rider of the two wheeler, the deceased is not wearing helmet and is not possessing valid driving licence to drive the two wheeler and that the quantum of Rs.12,000/- taken as notional income is on the higher side.

3.On a perusal of the counter statement filed by the appellant Insurance Company before the Tribunal, I find that no such plea of non-wearing of helmet and non-possession of valid driving licence was raised in the counter. During the cross-examination of P.W.1 and P.W.2, except formal suggestion, there is no valid cross examination. Besides, the respondent has not examined any person to probabalise the above said cotentions and hence, both the contentions of the appellant/Insurance Company regarding the non wearing of helmet and non-possession of valid driving licence falls to ground. I considered the that the notional income fixed for the accident of the year 2015 is just and proper and hence I find no the reason to interfere with the just and reasonable award passed in M.C.O.P.No.932 of 2016.

4. Accordingly, the Civil Miscellaneous Appeal is dismissed. The appellant Insurance Company is directed to deposit the award amount with accrued interest and costs , less the award amount, if any, already deposited, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants/parties are permitted to withdraw their share in the award amount with accrued interest and costs, less the award amount, if any already withdrawn, as ordered by the Tribunal. No costs. Consequently, connected Miscellaneous petition is dismissed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsn

To

1.The Special Sub Judge dealing with M.C.O.P. Cases/
The Motor Accidents Claims Tribunal, Tirunelveli
Tirunelveli



2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

WEB COPY

+1 CC to M/s.V. SAKTHIVEL, Advocate (SR-18911[F] dated 18/04/2022)

+1 CC to M/s.T. SELVAKUMARAN, Advocate (SR-19610[F] dated
20/04/2022)

C.M.A(MD) No.382 of 2022
and
C.M.P (MD) No.3374 of 2022
18.04.2022

MGJ(02.05.2022) 3P 6C