



C.M.A.(MD)No.1414 of 2016

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

and

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

C.M.A.(MD)No.1414 of 2016

and

C.M.P(MD)Nos.11839 of 2018 and 4144 of 2020

The Branch Manager,
The National Insurance Co., Ltd.,
Sowkarpet,
Chennai.

.. Appellant/2nd Respondent

Vs.

1.Danam

2.Vembadi

3.V.Sarusasi

.. Respondents/Petitioners

4.A.Sakthivel

.. Respondent/1st Respondent

[R3-Cause title amended
vide Court order dated
30.08.2018 made in
CMP(MD).7578/2018 by
PSNJ&TKJ]



C.M.A.(MD)No.1414 of 2016

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 05.02.2016 made in M.C.O.P.No.52 of 2012, on the file of the Motor Accidents Claims Tribunal (Sub Court), Kulithalai.

For Appellant : Mr.S.Srinivasa Raghavan
For Respondents 1 to 3 : Mr.N.Sudhagar Nagaraj

JUDGMENT

J.NISHA BANU, J.
and
N.ANAND VENKATESH, J.

This appeal has been filed by the National Insurance Company Limited against the award passed by the Motor Accident Claims Tribunal (MACT), Kulithalai, whereby the Tribunal granted compensation to the tune of Rs.23,80,000/- in favour of the claimants. The case of the claimants is that on 02.03.2011, at about 8.15 p.m. the deceased was proceeding in his two wheeler in the GNT road, Vadakarai junction and at that point of time, the driver of the lorry who was proceeding from



C.M.A.(MD)No.1414 of 2016

WEB COPY

north to south, drove the vehicle in a rash and negligent manner and he dashed the two wheeler driven by the deceased. As a result, the deceased sustained grievous injuries and succumbed to the injuries. The deceased was aged about 26 years at the time of his demise.

2. The Tribunal, after considering the facts and circumstances of the case and on appreciating the evidence available on record, came to a conclusion that the accident took place due to the rash and negligent driving of the lorry. As a consequence, considering the income and age of the deceased, the Tribunal fixed the compensation under various heads and awarded a total compensation of Rs.23,80,000/-. Aggrieved by the same, the Insurance Company has filed this appeal.

3. Heard Mr.S.Srinivasa Raghavan, learned counsel appearing for the appellant/Insurance Company and Mr.N.Sudhagar Nagaraj, learned counsel appearing for the respondents 1 to 3.



C.M.A.(MD)No.1414 of 2016

WEB COPY

4. The main ground that was raised by the learned counsel appearing on behalf of the Insurance Company is that the driver of the insured vehicle was not holding a valid and effective driving license and hence, it was contended that the liability cannot be fastened against the Insurance Company. A faint attempt was also made questioning the compensation granted by the Tribunal on the ground that it is slightly on the higher side.

5. The main ground that was raised by the learned counsel for the appellant pertains to the driver of the lorry not having a batch for driving the lorry as mandated by the Rules and Regulations framed under the Motor Vehicles Act.

6. The issue raised by the learned counsel for the appellant is no longer *res integra* and the law is now well settled in ***Mukund Dewangan v. Oriental Insurance Company Limited*** reported in AIR 2017 SC 3668. The main issue that was considered in this decision is as to



C.M.A.(MD)No.1414 of 2016

WEB COPY

whether a driver who is having a license to drive light motor vehicle and is driving a transport vehicle of that class, is required additionally to obtain an endorsement to drive a transport vehicle which does not exceed 7500 Kgs. It is only in cases of this nature, there is a requirement to have a batch. The Apex Court held that a driver holding a light motor vehicle license can drive all vehicles of class including transport vehicles and no separate endorsement is required to drive such vehicles.

7. In view of the above judgment, the main ground that has been raised in this appeal has to fail. Insofar as the amount of compensation granted by the Tribunal, this Court finds it to be just and reasonable and there is no ground to interfere with the same.

8. In the result,

(i) This Civil Miscellaneous Appeal is dismissed. No Costs.

Consequently, connected miscellaneous petitions are closed.



C.M.A.(MD)No.1414 of 2016

WEB COPY

(ii) This Court directed the Insurance Company to deposit the entire award amount with proportionate interest and costs. This condition has been complied with by the Insurance Company. In view of the same, it is left open to the claimants to withdraw the compensation amount along with the accrued interest in the manner indicated in the award passed by the Tribunal.

[J.N.B., J.] [N.A.V., J.]
15.09.2022

Index : Yes/No
Internet : Yes/No
PJJ

To
The Subordinate Judge/
Motor Accidents Claims Tribunal,
Kulithalai.



WEB COPY



C.M.A.(MD)No.1414 of 2016

J.NISHA BANU,J.
and
N.ANAND VENKATESH, J.

PJL

C.M.A.(MD)No.1414 of 2016

15.09.2022