



C.M.A.(MD)No.486 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.486 of 2023

and

C.M.P(MD)No.6183 of 2023

The Branch Manager,
United India Insurance Company Ltd.,
Karaikudi.

...Appellant/2nd Respondent

Vs.

1.P.Rajendran
2.K.Selvi
3.P.Muthuchamy
4.M.Panjavarnam
5.P.Murugan

...Respondents 1to5/Petitioners 1 to5

6.S.Lucas

...6th Respondent/1st Respondent

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 28.06.2022 passed in M.C.O.P.No.218 of 2017 by the Motor Accidents Claims Tribunal, (Additional District Court), Sivagangai.

For Appellant : Mr.S.Royce Immanuel

For R1, R3 to R5 : Mr.V.Kannan

For R6 : Mr.S.Pugalendhi



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JUDGMENT

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Challenging the award passed by the Tribunal, the Insurance Company has come out with the present appeal.

2.The Tribunal has awarded the compensation as follows:

S.No.	Description	Amount
1.	Loss of Dependency	Rs.7,07,784/-
2.	Loss of Estate	Rs. 16,500/-
3.	Loss of Parental Consortium (5x44,000)	Rs. 2,20,000/-
4.	Funeral Expenses	Rs. 16,500/-
	Total	Rs.9,60,784/-

3.The brief facts, leading to the filing of this Civil Miscellaneous Appeal, are as follows:-

The deceased was travelling in his bicycle to go for usual work at petrol bunk on 11.12.2016 at about 06.00 p.m and he was proceeding from east to west direction at the extreme left side of Madurai to Sivagangai main road and at that time, the rider of the first respondent's vehicle bearing registration No.TN 63-H 8944 came in a opposite direction in a rash and negligent manner and dashed against the deceased vehicle. As a result, the deceased sustained injuries and he



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was immediately taken to the Hospital and for further treatment, he was treated as inpatient in Rajaji Government Hospital, Madurai from 12.12.2016 to 18.12.2016 and died on 18.12.2016. The deceased was working as a night watchman in a petrol bunk and earning a sum of Rs.10,000/- per month. The petitioners are the legal heirs of the deceased.

4.The stand of the second respondent is that the deceased was very old and he could not control his bicycle. Despite the fact that the rider of the motorcycle had halted it the extreme left side of the road, the deceased without stopping his bicycle and lost his control and fell down on the road and collide with the other two wheeler. Further, the rider of the two wheeler of the first respondent did not possess valid driving license.

5.On the side of the petitioners, P.W.1 and P.W.2 were examined and Ex.P.1 to Ex.P.6 were marked. On the side of the second respondent, R.W.1 was examined and Ex.X.1 was marked and Thiru.Domnic Saviyo Director of the United Indian Insurance Company was examined as R.W.2 and Ex.R.1 was marked.



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6.The trial Court, after considering the evidence of P.W.1 and P.W.2, came to the conclusion that the accident was caused only by the negligence of the rider of the first respondent vehicle. This aspect was not disputed.

7.The only point was urged before this Court that since the rider of the two wheeler did not possess valid driving license at the time of accident, the Insurance Company cannot be fastened with the liability, since there is a violation in the policy condition. As the quantum has not in dispute, the only point is with regard to the liability is questioned.

8.On perusal of the entire materials much reliance is placed on the evidence of R.W.1 would show that the rider of the motorcycle did not possess valid driving license. Now, the only point raised for consideration before this Court is whether the Tribunal is right in fixing the liability on the Insurance Company?.

9.On perusal of the evidence of R.W.1, the Junior Assistant, gave evidence that no search result found in the computer for the license stands in the petitioner's name. Therefore, there is no valid license. It is relevant to note that



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merely on the basis of search result found in the computer, it cannot be concluded that there is no valid license at all. Possibility for getting driving license from other area cannot be ruled out. No notice whatsoever was issued to the first respondent. Further, the rider of the vehicle was not impleaded as a party to the proceedings and no steps have been taken by the Insurance Company by issuing notice to the rider of the vehicle or called upon him to produce the license. Only when such steps have been taken. In the event of no license was produced, it cannot be concluded that the person who, rode the motorcycle, did not have a valid license. Without taking any steps, merely on the basis of search result of the Junior Assistant, it can not be concluded that there is no valid license.

10.In the absence of any proof to show there is no license held by the rider of the two wheeler, it cannot be presumed merely on the basis of search result found in the computer in the RTO office of R.W.1 that there is no valid license.

11.In view of the above, I do not find any merits in the appal. Hence, this Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal is confirmed.



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12.The appellant/United India Insurance Company Ltd., is directed to deposit the entire compensation amount awarded by the Tribunal with accrued interest and costs to the credit of M.C.O.P.No.218 of 2017 before the Tribunal, within a period of six weeks from the date of receipt of a copy of this judgment, less the amount if any already deposited. On such deposit, the claimants are entitled to withdraw the amount, less the amount any already withdrawn, as apportioned by the Tribunal, by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

02.06.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

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To

1.The Motor Accidents Claims Tribunal/
Additional District Court,
Sivagangai.

2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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N.SATHISH KUMAR, J.

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