BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.635 of 2016

The National Insurance Company Limited,
Represented by its Branch Manager,
Door No.2-A, 1st Floor,
Thirumukkulam North Street,
Thallakulam,
Madurai – 625 002. ... Appellant/Respondent -2

-vs-

1. Hari Balakrishnan ... Respondent No.1/ Petitioner No.1
2. Bhuvaneswari ...Respondent No.2/ Petitioner No.2
3. Vidya Lakshmi ... Respondent No.3/Petitioner No.3
4. N.Anandan ... Respondent No.4/Respondent No.1

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and award made in M.C.O.P.No.119 of 2007, dated 23.12.2010 on the file of the Motor Accidents Claims Tribunal/Sub Court, Srivilliputhur.

For Appellant : Mr.D.Sivaraman

For Respondent : Mr.M.Jothibasu – for R1 to R3
: No appearance – for R4

JUDGMENT

The present Civil Miscellaneous Appeal has been filed by the Insurance Company challenging the award passed by the Motor Accidents Claims Tribunal/Sub Court, Srivilliputhur in M.C.O.PNo.119 of 2007 primarily on the ground of liability.

2. According to the claimants, the deceased, aged about 14 years had travelled in a Tata Sumo Car along with his family members from Courtallam to Srivilliputhur. The driver of the Tata Sumo Car had driven the vehicle in a rash and negligent manner and he was standing on the side of the road. In the said accident, the son of the first claimant, who was 14 years old and studying in 8th Standard, passed away. The claimants have prayed for a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) towards compensation.

3. The Insurance Company had filed a counter contending that the driver of the Tata Sumo Car was not having a valid and effective driving license at the time of accident and therefore, they are not liable to pay any compensation.

4. The Tribunal, after considering the oral and documentary evidence, arrived at a finding that the accident has taken place only due to the rash and negligent driving on the part of the driver of the Tata Sumo Car. In fact, in the said accident, the driver has also passed away. The deceased being occupant of the Car, is entitled to receive compensation. The Tribunal has further found that the driving license of the driver had expired on 10.07.2006 and the accident has taken place on 22.07.2006, within a period of 30 days of expiry of the license. Therefore, the license was effective even on the date of the said accident. The Tribunal fixed the compensation of Rs.4,05,000/- (Rupees Four Lakhs Five Thousand only). This award is under challenge in the present appeal.

5. The learned counsel appearing for the appellant/Insurance Company had contended that the driver of the Tata Sumo Car was not having a valid and effective driving license on the date of accident and the driving license held by the driver had expired on 10.07.2006. However, the accident had taken place on 22.07.2006. Therefore, the owner of the Tata Sumo Car had permitted the driver who was not having a valid driving license to drive the

vehicle. Hence, it is a clear case of violation of policy conditions and the Tribunal ought to have directed the Insurance Company to satisfy the award and permitted the Insurance Company to recover the same from the owner of the vehicle. The Tribunal was not right in mulcting the entire liability upon the Insurance Company without permitting the Insurance Company to recover the same from the owner of the vehicle.

6. Per contra, the learned counsel appearing for the respondents 1 to 3 had contended that even though the driving license had expired, the driver had a grace period of 30 days to renew the said license and within the said period, the accident has taken place and therefore, the Tribunal was right in holding that on the date of the accident, the driver was having a valid or effective driving license. Hence, he prayed for dismissal of the appeal.

7. I have carefully considered the submissions made by the learned counsel on either side.

8. The primary contention of the learned counsel appearing for the appellant is that the driving license of the Tata Sumo Car driver had expired on 10.07.2006 and the accident having taken place on 22.07.2006, and it

should be considered that on the date of accident, the driver was not having an effective or valid driving license. However, the said submission is not legally sustainable.

9. Section 14(2) (b) (ii) of the Act clearly points out that every driving license shall, notwithstanding its expiry under this Sub- Section, continue to be effective for a period of 30 days from such expiry. In the present case, the accident has taken place within a period of 30 days from the date of expiry of the driving license. Therefore, the Tribunal was right in arriving at a finding that the driver of the Tata Sumo Car was having a valid and effective driving license on the date of accident.

10. Considering the fact that the deceased was 14 years old and he was studying in 8th Standard, the quantum of award does not seem to be unreasonable or excessive. Therefore, this appeal lacks of merits.

11. Accordingly, this Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

14.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The Motor Accidents Claims Tribunal/
Sub Court, Srivilliputhur.

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

R.VIJAYAKUMAR,J.

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