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C.M.A. No.1680 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.1680 of 2021

1. P. Suvaneshwari @ Bhuvaneshwari,
2. P. Mahendiran,
3. P. Devendrian,
4. Nagarani,
5. Vimalendhiran,
6. Selvaranjini, Appellants

VS.

1. Pichandi,
2. United India Insurance Company Ltd.
Office at No.46 – 51. TKM complex, 2nd Floor,
3rd Party Hub, Katpadi Road,
Vellore. Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Decree and Judgement dated 22-01-2021 made in M.C.O.P. No. 881 of 2017 on the file of the Motor Accident Claims Tribunal, Sessions Judge Magalir Neethi Mandram, (Fast Track Mahila Court), Vellore.

For Appellants	:	Mr.M. Sivakumar
For Respondents	:	Ms.R. Ratna Thara for R2
		No appearance for R1



JUDGMENT

WEB COPY This appeal has been filed by the claimants challenging the impugned award on the ground that the Tribunal has erroneously not granted pay and recovery rights to the 2nd respondent / Insurance Company to pay the determined compensation amount to the appellants / claimants and thereafter recover the same from the 1st respondent, who is the owner of the insured vehicle.

2. Heard Mr.M.Sivakumar, learned counsel for the appellants / claimants and Ms.R. Ratnathara, learned counsel for the 2nd respondent / Insurance Company.

3. As seen from the impugned award as well as from the evidence available on record, it is clear that the Driver of the Auto insured with the 2nd respondent / Insurance Company was not possessing a driving licence at the time of the accident. The auto insured with the 2nd respondent / Insurance Company was alone responsible for the cause of the accident, which resulted in the death of the deceased Palani. The appellants / claimants are the dependants of the deceased Palani. When the evidence placed on record before the Tribunal will prove that the Driver of the Auto insured with the 2nd respondent / Insurance Company was not possessing valid Driving Licence, the Tribunal ought to have granted pay



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and recovery rights. In fact, the Tribunal in the impugned award has given a categorical finding that the Driver of the Auto insured with the 2nd respondent / Insurance Company was not possessing a valid driving licence at the time of the accident. Admittedly, the Driver of the Auto insured with the 2nd respondent / Insurance Company was alone responsible for the cause of the accident resulting in the death of the deceased Palani. By total non application of mind to the evidence available on record and despite having given a finding that the Auto insured with the 2nd respondent / Insurance Company was not possessing a Driving Licence, the Tribunal has erroneously not granted pay and recovery rights to the 2nd respondent / Insurance Company, in accordance with the settled law.

4. Accordingly, the impugned award, dated 22.01.2021 passed by the Tribunal is modified by granting pay and recovery rights to the 2nd respondent / Insurance Company by directing the 2nd respondent / Insurance Company to pay the determined compensation amount as per the impugned award to the appellants / claimants and thereafter recover the same from the 1st respondent / Insured, by following the due procedure established under law.

5. Accordingly, the 2nd respondent / Insurance Company is directed



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to deposit the amount awarded by the Tribunal along with interest @ 7.5% p.a., after deducting the amount already deposited if any, from the date of claim till the date of deposit and costs, to the credit of MCOP No.881 of 2017 on the file of the Motor Accident Claims Tribunal, Sessions Judge Magalir Neethi Mandram, (Fast Track Mahila Court), Vellore), within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the appellants /claimants as per the same ratio of apportionment made by the Tribunal through RTGS, within a period of two weeks thereafter.

6. In the result, this Civil Miscellaneous Appeal is allowed. No costs.

24.06.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsi2



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ABDUL QUDDHOSE, J.

vsi2

To

1. The Sessions Judge,
Magalir Neethi Mandram,
Motor Accidents Claims Tribunal,
(Fast Track Mahila Court), Vellore.

2. The Section Officer,
V.R. Section, High Court of Madras,
Chennai – 104.

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