

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.06.2015

CORAM

THE HONOURABLE MR.JUSTICE N. KIRUBAKARAN

C.M.A.No. 1000 of 2015

and

M.P.No.1 of 2015

M/s. National Insurance Co.Ltd.,
5/A, Sub Collector Office Road,
Opp. To District Court Buildings,
Dindugal-624 001.

...Appellant/2nd Respondent

Vs.

1. T.Chandrasekaran
2.Abdul Rahiman

... Respondents/Petitioner /
1st Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Decree and Judgment passed in MCOP.No.341 of 2008 on 28.01.2012 on the file of the Learned Motor Accident Claims Tribunal (Subordinate Judge) Gobichettipalayam, Erode.

For Appellant : Mr. J. Chandran

For Respondent -1 : Mr.Ma.Pa.Thangavel

O R D E R

Though it is contended that the claimant travelled as an unauthorised passenger, there is no evidence to that effect. It was proved by the appellant/Insurance Company that the driver of the offending vehicle did not have valid driving vehicle. Taking into consideration the above said fact, the Tribunal rightly directed the appellant/Insurance Company to pay the amount and recover the same from the owner. Therefore, the said direction given by the Tribunal is confirmed.

2. The appeal has been preferred by the Insurance Company against the award of Rs.1,60,400.50/- as compensation for the injuries sustained by the first respondent and the accident occurred on 26.02.2008.

3. Heard Mr. J. Chandran, the learned counsel appearing for the appellant and Mr.Ma.Pa.Thangavel learned counsel appearing for the respondent/claimant.

4. The claimant sustained fracture on the left leg and he underwent surgery and screw has been fixed as proved by Ex.P7. Both the bones were mal united interlocking nail and screw fixed and the movement of right ankle joint is affected making it difficult for him to sit on the floor, squat and carry weight. Therefore, based on Ex.PW2 towards evidence and disability certificate at 40% has been rightly determined and a sum of Rs.80,000/- was correctly awarded by the Tribunal towards disability and other amounts awarded by the tribunal are all reasonable.

5. In view of the above reasonings, this Court is not inclined to interfere with the appeal and the appeal fails and the same is dismissed. The appellant/Insurance Company is directed to deposit the entire amount along with interest and costs within a period of four weeks from the date of receipt of copy of this order. On such deposit, the first respondent/claimant is permitted to withdraw the entire amount within one week. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

True Copy

Sub Assistant Registrar

To

The (Subordinate Judge) Gobichettypalayam, Erode.

+1 cc to Mr.Ma.P.Thangavel, Advocate,SR.26117

+1 cc to Mr.J.Chandran, Advocate,SR.26036.

Sr(co)
krd 19/6

सत्यमेव जयते

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