

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.07.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 1592 of 2015

&

M.P. No. 1 of 2015

M/s. National Insurance Co. Ltd.,
Dharmapuri,
Having D.O. At LRN Colony,
Hasthampatty, Salem - 7. ..Appellant/2nd Respondent.

Vs.

1. D. Murugan
2. P. Malaramannan ..Respondents/Petitioner/
1st Respondent.

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 05.11.2014 passed in O.P. No. 257 of 2010 by the Motor Accidents Claims Tribunal (Special Sub Judge No.1), Salem.

For Appellant :: Mr.D. Bhaskaran

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Insurance Company as against the award of Rs. 1,67,000/- passed by the Motor Accidents Claims Tribunal (Special Sub Court No.1), Salem, in favour of the 1st respondent herein for the injuries sustained by him in the accident, which occurred on 27.12.2008.

2. Heard Mr. D. Bhaskaran, learned counsel for the appellant.

3. The only question to be decided is whether the Tribunal should have ordered pay and recovery for non-possession of valid licence by the driver of the insured vehicle.

4. Though the appellant Insurance Company took such a stand, it failed to discharge the burden of proof that the driver of the insured vehicle did not possess driving licence and therefore, the Tribunal did not order pay and recovery. If the Insurance Company had proved that the driver did not have a valid licence, probably, the Tribunal would have given a direction for pay and recovery. In the absence of any proof regarding non-possession of valid driving

licence by the driver/owner of the insured vehicle, the award passed by the Tribunal, fixing the liability on the Insurance Company, cannot be found fault with. Hence, the appeal fails and the same is dismissed. No costs. Connected M.P. is closed.

5. The appellant Insurance Company is directed to deposit the entire award amount, with interest and costs, after deducting the amount already deposited, if any, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the 1st respondent/claimant is permitted to withdraw the same within a period of one week thereafter.

nv

s/d-
Assistant Registrar

True Copy

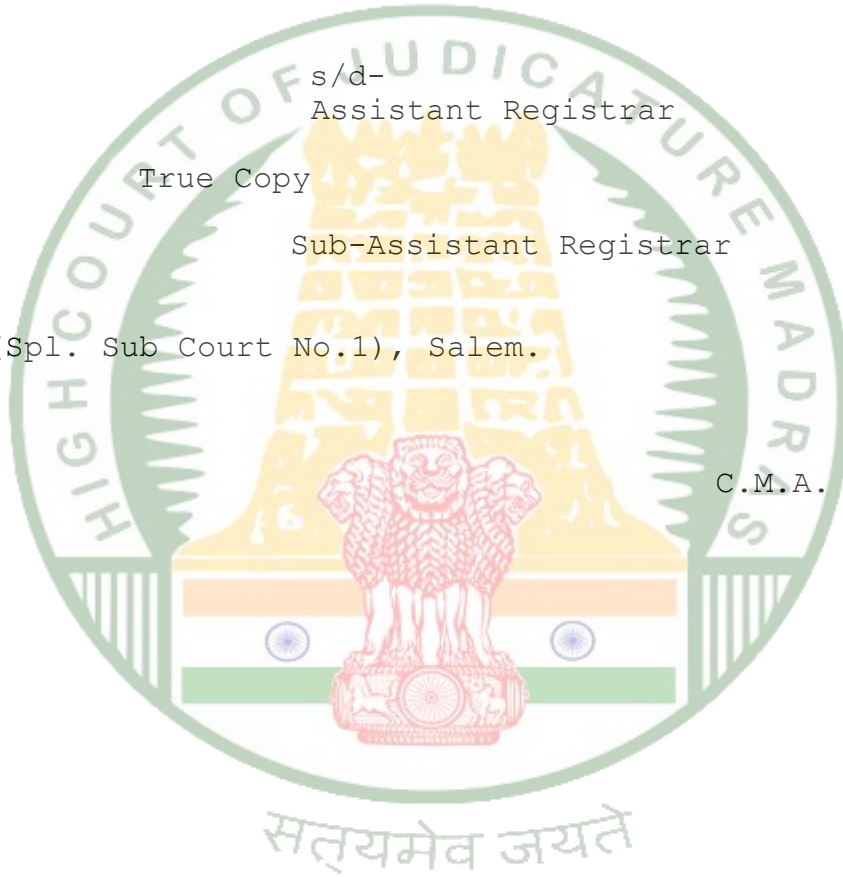
Sub-Assistant Registrar

To

The MACT (Spl. Sub Court No.1), Salem.

tej(co)
prk14/8

C.M.A. No. 1592 of 2015



WEB COPY