

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:9.1.2015

CORAM:

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

CMA.No.2866 of 2012

The National Insurance Co.Ltd.,
No.653, Nethaji Road,
Manjakuppam,
Cuddalore.

... Appellant /2nd Respondent

-Versus-

1.R.Rajesh ...1st Respondent/Petitioner
2.S.Ramalingam
(Set exparte before the Trial Court)...2nd Respondents/1 Respondent

This civil Miscellaneous appeal is filed under Section 173 of the Motor Vehicles Act 1988 against the decree and judgement made in M.C.O.P.No.268 of 2008 dated 14.11.2011 on the file of Motor Accident Claims Tribunal (First Additional Sub Judge), Cuddalore.

For Appellant : Mr.C.R.Krishnamoorthy
For Respondents : Ms.Ramya V.Rao for R1

J U D G E M E N T

The appeal has been preferred by the insurance company against the award of Rs.1,50,800/- granted in favour of the first respondent.

2. Heard the parties. The only point raised by the learned counsel appearing for the appellant is that even though for lack of possessing effective and valid licence by the driver of the offending vehicle, the Tribunal ordered pay and recover a sum of Rs.1,50,800/- to the effect that the appellant is directed to pay the compensation and recover the same from the second respondent, it is not reflected in the decree.

3. A perusal of the award would show that in paragraph-16 of the award, the Tribunal categorically gave a finding that the rider of the motor cycle did not have valid and effective driving licence and therefore, in paragraph-27 of the award, the Tribunal directed the appellant to pay the award amount and recover the same from the second respondent. However, it has not been reflected in the decree. If it has been wrongly typed, the appellant has to approach only the Tribunal for modification or rectification of the mistake, as it is

only a clerical mistake. However, the appellant has come before this Court.

4. Taking into consideration of the fact that the accident occurred as early as 27.10.2007 and the award was passed in 2011 and the matter is pending before this Court for three years, to avoid any waste of time, this Court allows the appeal to the extent modifying the decree passed by the Tribunal with a direction to pay the award amount along with interest and costs and recover the same from the second respondent. The appellant is directed to deposit the entire award amount along with interest and costs within four weeks from the date of the receipt of a copy of the order and on such deposit, the first respondent is permitted to withdraw the entire award amount within one week thereafter. The appeal is disposed of. No costs. Consequently the connected M.P.No.1 of 2012 is closed.

Sd/-
Deputy Registrar
Dated:3.3.15

True Copy

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal (First Additional Sub Judge),
Cuddalore.

+1 cc to Mr.A.N.Viswanatha Rao, Advocate,SR.1930

+1 cc to Mr.C.R.Krishnamoorthy, Advocate,SR.1435.

mg(co)
krd 4/3

C.M.A.No.2866 of 2012

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