



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 09.11.2016

Coram:

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.1101 of 2015

and

M.P.(MD)No.2 of 2015

The Oriental Insurance Company Limited,
No.555/1, G.H.Road,
Theni.

.. Appellant/4th Respondent

-Vs-

1.P.Kumar ...1st Respondent/Petitioner

2.S.A.Mariappa Chettiar ...2nd Respondent/1st Respondent

3.The Branch Manager,
New India Assurance Company Ltd.,
No.674, Periyakulam Road,
Theni. ... 3rd Respondent/2nd Respondent

4.Manimuthuraja ... 4th Respondent/3rd Respondent
(2nd and 4th respondents remained
Ex-parte before the lower Court)

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award made in M.C.O.P.No.413 of 2003, dated 03.08.2012, on the file of the Motor Accidents Claims Tribunal-cum-Sub Court, Periyakulam.

For Appellant : Mr.K.Bhaskaran

For Respondents : Mr.K.Appadurai (for R1)

Mr.N.Vallinayagam (for R2)

JUDGMENT

The appellant/Oriental Insurance Company Limited has filed the present C.M.A(MD)No.1101 of 2015, challenging the award passed in M.C.O.P.No.413 of 2003, dated 03.08.2012, on the file of the Motor Accidents Claims Tribunal-cum-Subordinate Court, Periyakulam.

2.The accident took place on 06.08.2002 at about 20.30 hours at Kombai to Thevaram Main Road. It is a case of wound at Chin Abrasion in the Right knee and the claimant filed the application for compensation before the Motor Accidents Claims Tribunal-cum-Subordinate Court, Periyakulam. Considering the facts and circumstances, the Tribunal passed an award on 03.08.2012, granting Rs.12,000/- in MCOP.No.413 of 2003. The



appellant/Insurance Company preferred the present appeal solely on the ground that the charge sheet was filed against the driver of the Tractor, who was not holding a valid driving licence. Therefore, the liability ought not to have fixed on the appellant/Insurance Company and the Tribunal committed an error.

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3.The learned counsel appearing for the respondent opposed the contention by stating that the quantum of award ordered by the Tribunal is just and there are contradictions among the witnesses and in the absence of the clear and unambiguous deposition such a plea taken by the learned counsel appearing for the appellant cannot be considered. Accordingly, the award of the Tribunal is to be confirmed. Considering the facts and circumstances of the case, this Court is of the view that the award amount granted by the Motor Accident Claims tribunal is just and there is no error on record.

4.Such being the case, this Court is inclined to confirm the award passed by the Motor Accident Claims Tribunal-cum-Subordinate Court, Periyakulam in MCOP.No.413 of 2003 and consequently the Civil Miscellaneous Appeal is dismissed.

5.The learned counsel appearing for the appellant/Insurance Company represented that the entire award amount has already been deposited. The respondent / claimant is permitted to withdraw the entire award amount along with accrued interest and costs by making necessary applications before the Tribunal. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(co)

/True copy/

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal cum Subordinate Judge,
Periyakulam.

Copy to:The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.N.Vallinayagam, Advocate SR.No.67145

+1cc to Mr.K.Bhaskaran, Advocate SR.No.67125

+1cc to Mr.K.Appadurai, Advocate SR.No.67073

vsa

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C.M.A(MD)No.1101 of 2015

and

M.P. (MD)No.2 of 2015

09.11.2016

(1/2)