



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2016

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

CMA(MD)No.797 of 2011

and

M.P(MD)No.2 of 2011

The Oriental Insurance
Company Limited,
Dingidul,
Through its Branch Manager.

... Appellant/Respondent No.2

vs.

1) P.Chandran

... Respondent No.1/Petitioner

2) Kumaravel

... Respondent No.2/Respondent No.1

3) The Registrar,
Gandhi Grama Gramiya
Palgalaikalagam,
Gandhi Gramam,
Dindigul District.

... Respondent No.3/Respondent No.3

Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 13.08.2010 made in MCOP.No.425 of 2005 on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Judge cum Fast Track Court, Dindigul.

For Appellant : Mr.C.Ramachandran

For R1 to R3 : No appearance

JUDGMENT

It is the case of an injury caused on account of the accident took place on 14.11.2004 around 05.30 p.m on Madurai-Dindigul main road near J.Oothupatti Pirivu. The injured filed an application seeking compensation before the Motor Accident Claims Tribunal, Additional District and Sessions Judge cum Fast Track Court, Dindigul, and the Tribunal considering the facts and the circumstances of the case, awarded Rs.71,000/- as total compensation with interest at 7.5% per annum. Challenging the award, the appellant insurance company preferred this appeal, on the ground that the injured was travelling as a gratuitous passenger in the goods vehicle and therefore, the insurance company is not liable to pay compensation. As per the insurance



policy, two persons alone are covered especially in the goods vehicle, one is the driver and another person is accompanying the driver.

2.It is submitted by the learned counsel for the appellant that another person filed application seeking compensation and the same was dismissed and the same was marked as Ex.R1.

3.When the Tribunal rejected compensation in respect of another third person, who was travelling in the goods vehicle, the Tribunal was right in considering the case in respect of the respondent/claimant in this appeal and accordingly, except the driver one person alone is granted compensation under the policy coverage and hence, there is no infirmity in the award passed by the Tribunal. This apart, the Tribunal ordered for pay and recovery, considering the policy violations that the driver did not possess the valid driving licence. Hence, this Court is not inclined to consider the grounds of appeal raised by the appellant and accordingly, the impugned award is confirmed.

4.It is represented that entire award amount with interest had already been deposited to the credit of the claim petition. The 1st respondent/claimant is permitted to withdraw the same, through RTGS, by filing necessary applications before the Tribunal.

In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, M.P(MD)No.2 of 2011 is closed.

Sd/-
Deputy Registrar

/True copy/

Sub Assistant Registrar

To

The Additional District and Sessions Judge cum
Fast Track Court,
Motor Accident Claims Tribunal,
Dindigul.

NBI
TE/SS2-KSM : 25/01/2017 : 2P/2C

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