IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2017

CORAM : THE HONOURABLE Mr. JUSTICE N.SESHASAYEE

CMA.No.886 of 2007
and MP.No.1 of 2007

The Manager,
National Insurance Co. Ltd.,
MTP Cell, No.751, Anna Salai,
Chennai - 2. ... Appellant/2nd Respondent

Vs.

1.G.Shantha
2.S.Ganesan ...Respondents 1 & 2/Claimants
3.P.A.Mehaboob ...3rd Respondents/1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988 against the judgment and decree passed in MCOP.No.472 of 2004 on 01.06.2006 on the file of the learned (Motor Accident Claims Tribunal) [Additional District Judge, Fast Track Court No.V], Tiruvallur.

For Appellant :Mr.J.Chandran
For Respondents : R1 & R2 - Dismissed
R3 - No appearance

JUDGMENT

On 01.06.2004 at Pulla Reddy Avenue one Anandkumar was riding his motorcycle along with his friend on the pillion. At that time, a Tata Sumo bearing registration No.TN09-L-6708 belonging to the third respondent herein (first respondent before the Tribunal) and insured with the appellant (second respondent before the Tribunal), driven very rashly and negligently by its driver came from the opposite direction and knocked the motorcycle in which the rider of the motorcycle suffered fatal injury. The victim of the accident was 23 years old and was a bachelor. On various heads of damages his parents moved the Tribunal with a claim for Rs.10,00,000/- and on considering the evidence before it the Tribunal passed an award for Rs.4,12,500/- and fastened the liability on the owner and its insurer payable with interest at 7.5% per annum.

2. Before the Tribunal the Insurance Company took up a contention that the entire negligence for the occurrence of the accident was that of the rider of the motorcycle and not on the

driver of the alleged offending vehicle. It also took up a contention that the driver did not possess a valid licence. On the question of negligence, the Tribunal found that it was the negligence of the driver of the Tata Sumo that had resulted in the accident. The Tribunal also found that M.V. Report which is marked as Ext.P-5 in this case gives the insurance details of the vehicle.

3.The learned counsel for the appellant submitted that the Tribunal had failed to notice that there was no insurance cover for the vehicle and at any rate there was no driving licence for the driver of the vehicle. To substantiate both the submissions, I find no evidence adduced on the side of the Insurance Company for want of material to support the submissions.

4. In the result, I find no merit in the appeal and the same is dismissed without costs. The appellant/Insurance Company along with its insured, the owner of the offending vehicle (Tata Sumo) are directed to pay the compensation awarded by the Tribunal, less if any already deposited, within four weeks from the date of receipt of a copy of this order, whereupon the claimants are permitted to withdraw the same forthwith. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

ds
To

1.The Additional District Judge,
The Motor Accident Claims Tribunal,
Fast Track Court No.V,
Tiruvallur.

2.The Section Officer,
VR Section,
High Court, Madras.

+1cc to Mr.J.Chandran, Advocate Sr.7665

CMA.No.886 of 2007

kji[co]
srg 8/3/2017