



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.10.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.358 of 2015

T.Thangaraj

... Appellant/Petitioner

vs

1.M.Manoharan

2.The Oriental Insurance Company Limited,
Represented by its Divisional Manager,
No.16, North Veli Street,
Madurai.

... Respondents/Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act against the fair and decreetal order passed in M.C.O.P.No.1094 of 2010 on the file of the Motor Accidents Claims Tribunal (4th Additional Sub Court), Madurai, dated 16.12.2011.

For Appellant : Mr.M.P.Senthil

For Respondent : Mr.K.Bhaskaran for R2

JUDGMENT

Heard the learned counsel on either side.

2.The claimant has filed this appeal questioning the exoneration of the Insurance Company. The Tribunal has exonerated the Insurance Company on the ground that the vehicle in question was driven by a person did not have a valid driving license. In such a case the principle of pay and recover ought to have been applied. Therefore the claimant has filed this appeal.

2.The award dated 16.12.2011 made in M.C.O.P.No.1094 of 2010 on the file of the Motor Accidents Claims Tribunal (4th Additional Sub Court), Madurai is accordingly modified and liability is fixed on both the respondents herein. In other words, the award passed by the Court below is modified by applying pay and recover principle.

3.The second respondent insurance company is directed to deposit the entire compensation amount with interest at the rate of 7.5% per annum and cost from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order and thereafter recover the award amount from the vehicle owner in this very proceeding by filing an execution petition. On such deposit, the claimant is entitled to withdraw



the same by filing proper application.

4.The Civil Miscellaneous Appeal is allowed. No costs.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1.The IV Additional Subordinate Judge,
Motor Accidents Claims Tribunal
(4th Additional Sub Court), Madurai.

2.The Record Keeper, Vernacular Records Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.M.P.SENTHIL Advocate in SR. No. 84295

+1cc to Mr.K.BHASKARAN Advocate in SR. No. 84113

TSG

JS/GT/SAR.1/8.12.2017/2P-5C

JUDGMENT MADE IN
C.M.A. (MD) No.358 of 2015
30.10.2017