



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2017

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CMA(MD)No.437 of 2015

and

MP(MD)No.1 of 2015

The Divisional Manager,
National Insurance Company Ltd,
33, Promenade Road,
Cantonment, Tiruchirappalli. ... Appellant/Respondent No.2

Vs.

1.S.Jesu ... Respondent No.1/Petitioner

2.N.Chidambara Pandi .. Respondent No.2/Respondent No.1

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 30.03.2011 made in MCOP.No.1391 of 2005 on the file of the Motor Accident Claims Tribunal, I Additional Sub Judge, Trichy.

For Appellant	: Mr.N.Murugesan
For Respondents	: Mr.C.Deepak for R1
	: No Appearance for R2

JUDGMENT

The insurance company has filed this appeal questioning the impugned award dated 30.03.2011 made in MCOP.No.1391 of 2005 on the file of the Motor Accident Claims Tribunal, I Additional Sub Judge, Trichy principally on the ground of liability.

2.According to the insurance company, the injured claimant one S.Jesu met with an accident on 23.11.2004. However, an F.I.R was given only on 25.11.2004. He got himself admitted in the hospital on the next day. It appears that the claimant had informed the doctor that he was hit by a bus. But, in the F.I.R, which was marked as Ex.P1, the case of the claimant is that he was standing in a bus stop when the two wheeler belonging to the second respondent and insured with the appellant had hit him. Police filed final report and the



vehicle owner also pleaded guilty before the Criminal Court and remitted the fine. This was marked as Ex.P4. The vehicle owner had insured the vehicle and policy was very much in force. Ex.P8 was his driving licence.

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3.Considering all these circumstances, the Tribunal passed an award for a sum of Rs.94,000/- with interest and fastened the liability on the appellant insurance company. Though there appears to have some force in the contention raised by the learned counsel appearing for the appellant insurance company, I am not in a position to allow the appeal. Because, the evidence on record is not sufficient to sustain, even on preponderance of probability, the defence projected by the appellant herein.

4.I therefore have to necessarily hold that the Tribunal was right in passing the impugned award. The matter does not call for any interference.

5.The award dated 30.03.2011 made in MCOP.No.1391 of 2005 on the file of the Motor Accident Claims Tribunal, I Additional Sub Judge, Trichy is confirmed.

6.The appellant insurance company and the second respondent are directed to deposit the entire compensation amount jointly with interest at the rate of 7.5% per annum, from the date of petition till the date of realization and costs, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimant is entitled to withdraw the same by filing proper application before the Tribunal, less the amount already withdrawn by them, if any.

7.This appeal is dismissed with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar



1. The 1st Additional Sub Judge,
Motor Accident Claims Tribunal, Trichy.

2. The Record Keeper, V.R Section,
Madurai Bench of Madras High Court, Madurai. (2copies)

+1CC to Mr.N.Murugesan, Advocate Sr.No.89487

+1CC to Mr.C.Deepak, Advocate Sr.No.89489

GJM/RR/SAR-3-6.6.18-3p-6c

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