



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

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C.M.A.No.5 of 2011

and

M.P.(MD)No.1 of 2011

M/s. Oriental Insurance Co.Ltd
Represented by its Branch Manager,
No.2, Khenny Building ,
No.3, First Floor,
First Cross Ganthi Nagar
Bangalore-9.

... Appellant/Respondent No. 2

Vs.

1.V.Vijayarangan
2.M.Venkadesh

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

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 27.03.2010 and made in M.C.O.P.No.30 of 2009 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Kovilpatti.

For Appellant	: Mr.A.K.Basakara Pandian
For R1	: Mr.C.Sankar Prakash
For R2	: Mr.Velmurugan

J U D G M E N T

This Civil Miscellaneous Appeal is directed under Section 173 of Motor Vehicles Act, 1988, by the Insurance Company, as against the award dated 27.03.2010 made in M.C.O.P.No.30 of 2009 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Kovilpatti.

2. Heard Mr.A.K.Baskara Pandian, learned counsel appearing for the appellant Insurance Company and Mr.C.Sankar Prakash, learned counsel appearing for the first respondent and Mr.Velmurugan, learned counsel appearing for the second respondent and perused the records.

3. The facts in nutshell:

Due to the road accident, which took place on 01.06.2008 at 3.45 p.m in Tiruneveli-Kovilpatti(North-South) road, the advertisement board and the building belongs to the petitioner company were damaged and a claim petition was filed claiming Rs.1,10,000/-



4. The second respondent resisted the claim by stating that the petitioner would prove the fact that the accident occurred due to the negligence of the first respondent driver and the report of the surveyor is wrong and the claim amount is excessive.

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5. Before the tribunal, on the side of the claimants, 2 witnesses were examined and Exs.P1 to P9 were marked and on the side of the appellant, 1 witness was examined and Exs.R1 and Ex.R2 were marked.

6. After perusing oral and documentary evidence, the Tribunal had awarded Rs.41,000/- as compensation with interest at the rate of 7.5% from the date of petition till the date of deposit. Challenging this amount, the appellant/ Insurance Company has filed this appeal.

7. The learned counsel for the appellant, among other grounds, has raised main ground that the cleaner, who drove the vehicle at the time of accident did not have any valid license.

8. The learned counsel for the first respondent/claimant would submit that the said plea has not been raised before the Tribunal.

9. Considering the above stated facts, this Court is of the view that the award passed by the Tribunal is fair and reasonable and the same is confirmed.

10. The appellant Insurance Company is directed to deposit the entire award amount, less the amount if any already deposited, with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit within a period of eight weeks from the date of receipt of copy of this judgment. On such deposit being made, the claimant is entitled to withdraw the entire award amount along with proportionate interest and costs.

11. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected M.P.(MD) No.1 of 2011 is also dismissed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar



To,

The Motor Accident Claims Tribunal,
Sub Judge, Kovilpatti.

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Copy to

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

+1cc to Mr.A.K.Basakara Pandian, Advocate Sr.No.65182

CM

VB/MR/KKR/SAR1/07/085/2017/3P/4C

**C.M.A.No.5 of 2011
and
M.P. (MD) No.1 of 2011**

12.07.2014