

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 28.07.2017****CORAM****THE HONOURABLE MRS.JUSTICE J.NISHA BANU****C.M.A(MD)No. 544 of 2011**
and M.P. (MD)No.1 of 2011

The Branch Manager,
National Insurance Co. Ltd.,
Thanjavur.

... Appellant / 2nd Respondent**Vs.**1.Vijayakumar ... 1st Respondent/Petitioner2.Durairajan ... 2nd Respondent/1st respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 30 of Workmen Compensation Act, against the award dated 05.01.2011 made in W.C.No.240 of 2007 on the file of the Workmen Compensation Commissioner and Deputy Commissioner of Labour, Trichy.

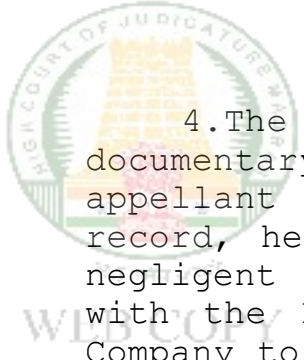
For Appellant	:Mr.A.K.Baskarapandian
For R-1	:Mr.N.Sudhakar Nagaraj

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company against the award dated 05.01.2011 made in W.C.No.240 of 2007 on the file of the Workmen Compensation Commissioner and Deputy Commissioner of Labour, Trichy.

2. It is a case of injury caused due to the accident that took place on 05.07.2017 and that when the claimant driving his auto bearing registration No.TN 49 C 4770, at Thanjavur-Trichy main road, a lorry, which is insured with the appellant-Insurance Company, drove the vehicle in a rash and negligent manner and dashed against the auto and due to the accident, the claimant sustained grievous injuries all over the body. Hence, the claimant filed an application in W.C.No.240 of 2007 on the file of the Workmen Compensation Commissioner and Deputy Commissioner of Labour, Trichy, seeking compensation for a sum of Rs.5,00,000/-.

3.Before the Tribunal, the respondent No.1/Claimant examined two witnesses as P.Ws.1 and 2 and marked seven documents as Ex.P.1 to Ex.P.7. On the side of the appellant R.Ws.1 and 2 were examined and no documentary evidence was marked.



4.The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel for the appellant and claimants and also on appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the driver of the lorry, which is insured with the Insurance Company and directed the appellant/Insurance Company to pay a sum of Rs.1,55,967/-, as compensation, along with interest at the rate of 12% p.a.

5. Against which, the appellant/Insurance Company has filed this present appeal on the ground that the Tribunal has erred in fixing the entire negligence on the part of the driver of the lorry and as per the evidence of R.W.1, the driver of the lorry has no endorsement to drive the transport vehicle.

6.Though the learned counsel appearing for the appellant/Insurance Company has raised many other grounds, he would make his submission only on the ground that the driver of the lorry has no endorsement to drive the vehicle.

7.Per contra, the learned counsel for the first respondent/claimant contented that the learned Deputy Commissioner awarded a just and reasonable compensation and the same does not require any interference and hence, this appeal is to be dismissed.

8.Heard the learned counsel appearing on both sides and perused the materials available on record.

9.The Hon'ble Supreme Court of India has recently considered and decided the same issue in **Civil Appeal No.5826 of 2011 in Mukund Devangan Vs. Oriental Insurance Company Limited**, wherein it has been held as follows:

"The effect of amendment of Form 4 by insertion of 'transport vehicle' is related only to the categories which were substituted in the year 1994 and the procedure to obtain driving license for transport vehicle of class of 'light motor vehicle' continues to be the same as it was and has not been changed and there is no requirement to obtain separate endorsement to drive transport vehicle, and if a driver is holding license to drive light motor vehicle, he can drive transport vehicle of such class without any endorsement to that effect".

10.In view of the recently delivered judgment of the Hon'ble Supreme Court of India cited supra, there is no infirmity in the order passed by the learned Deputy Commissioner and hence, the <https://services.e-courts.gov.in/services> The amounts awarded under all the heads are also just and reasonable and the same does not require interference at the hands of this Court.



11. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 05.01.2011 made in W.C.No.240 of 2007 on the file of the Workmen Compensation Commissioner and Deputy Commissioner of Labour, Trichy, is hereby confirmed. The appellant/Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of six weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the first respondent/claimant is permitted to withdraw the award amount with proportionate interests and costs without filing formal permission petition before the Tribunal. No Costs. Consequently, connected Miscellaneous Petition in M.P.(MD) No. 1 of 2011 is closed.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To,

1. The Workmen Compensation Commissioner
and Deputy Commissioner of Labour, Trichy.
2. The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.A.K.BASKARA PANDIAN, Advocate, SR No. 68647.

RJ2

PSM/SKN-RSK/SAR3/17.08.2017/3P/4C

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28.07.2017