

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :26.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2677 of 2008

AND

M.P.NO.1 OF 2008

United India Insurance Co. Ltd.,
No.6, Ganga Graha, 2nd Floor,
Nungambakkam High Road,
Chennai - 600 034.

...Appellant/2nd Respondent

Vs

1.S.Sundaresan ...1st Respondent/Petitioner

2.P.Sakthivel ...2nd Respondents/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 21.09.2007 in M.C.O.P.No.557 of 2005 on the file of the Motor Accident Claims Tribunal, (Chief Judicial Magistrate-I) Dharmapuri at Krishnagiri.

For Appellant : Mr.T.Ravichandran

For Respondent : Mr.R.Prabakaran (for R1)

: R2 - Sd - No appearance

JUDGMENT

The instant appeal has been filed by the Insurance Company challenging the Award dated 21.09.2007, passed by the Motor Accident Claims Tribunal (Chief Judicial Magistrate-I) Dharmapuri at Krishnagiri, in M.C.O.P.No.557 of 2005.

2.The brief facts leading to the filing of the instant appeal are as follows:

(i)The first respondent sustained injuries on 24.07.2003 as a result of an accident caused by a tempo van bearing registration No.TN-39-E-0729 owned by the second respondent and insured with the Appellant.

(ii)The first respondent preferred a claim before the Motor Accident Claims Tribunal in M.C.O.P.No.557 of 2005, seeking a compensation of Rs.60,000/-.

(iii)The Motor Accident Claims Tribunal, by its Award dated 21.09.2007 in M.C.O.P.No.557 of 2005, directed the Appellant to pay the first respondent a sum of Rs.12,000/- together with interest at the rate of 7.5% per annum from the date of claim, till the date of realization and also awarded costs.

3.Aggrrieved by the Award dated 21.09.2007, passed in M.C.O.P.No.557 of 2005, the instant appeal has been filed.

4.Heard Mr.T.Ravichandran, learned Counsel for the Appellant and Mr.R.Prabakaranj, learned Counsel for the first respondent. Till date, notice has not been served on the second respondent, who is the owner of the vehicle.

5.According to the learned Counsel for the Appellant, the first respondent was set exparte before the Tribunal. Since the appeal pertains to the year 2008 and this Court is going to confirm the Award, there is no necessity to service the notice in this appeal on the second respondent.

6. According, to the learned Counsel for the Appellant, the driver of the insured vehicle did not possess a valid driving license at the time of the accident. Therefore, the Tribunal ought to have awarded pay and recovery rights to the Appellant.

7.This Court has examined the impugned Award. As seen from the Award, no evidence has been let in by the Appellant before the Tribunal to establish that the driver of the insured vehicle did not possess a valid driving license. Since no evidence was let in by the Appellant, the Tribunal has rightly not granted pay and recovery rights to the Appellant under the impugned Award.

8.Accordingly, there is no infirmity in the impugned Award. In the result, the appeal is dismissed. Consequently, the connected miscellaneous petition is closed. However, there shall be no order as to costs. Consequently, the connected M.P.No.1 of 2008 is closed.

9. It is represented that the entire award amount has already been deposited to the credit of MCOP. The first respondent is permitted to withdraw the same on filing an appropriate application.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal,
(Chief Judicial Magistrate-I) Dharmapuri,
Krishnagiri.

2.The Section Officer,
Vernacular Section,
Madras High Court. (2 Copies)

+1cc to Mr.T.Ravichandran, Advocate Sr.66784

+1cc to Mr.P.Mani, Advocate Sr.67480

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AND

M.P.NO.1 OF 2008

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srg 13/11/2018

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