

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1943 of 2010

and MP No.1 of 2010

National Insurance Co., Ltd.,
Represented by its
Divisional Manager office at
LRN Colony Post Bag
No.772, Saradha College Road,
Salem - 7.

...Appellant

Vs

1. Krishnaraj

2. Jayavel

...Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 11.02.2010 made in M.C.O.P.No.1456 of 2006 on the file of the Motor Accident Claims Tribunal (Additional District Judge) FTC No.II at Salem District.

For Appellant : Ms.R.Srividya

For Respondents: R1 & R2 - No Appearance

JUDGMENT

The instant appeal has been filed by the Insurance company, challenging the Award dated 11.02.2010, passed by the Motor Accident Claims Tribunal (Additional District Judge) FTC No.II at Salem District in M.C.O.P.No.1456 of 2006.

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

(i)The first respondent sustained injuries as a result of an accident caused by a Motor Cycle bearing Registration No.TN30 J 2621 owned by the second respondent and insured with the Appellant.

(ii)The first respondent preferred a compensation claim before the Motor Accident Claims Tribunal, Salem in M.C.O.P.No.1456 of 2006, seeking compensation of Rs.8,35,000/- which was restricted to Rs.5,00,000/-.

(iii)The Motor Accident Claims Tribunal, Salem by its Award dated 11.02.2010, passed in M.C.O.P.No.1456 of 2006, directed the Appellant to pay the first respondent a sum of Rs.85,000/- together with interest at 4.3% from the date of claim till date of realization.

3.Aggrieved by the Award dated 11.02.2010, passed by the Motor Accident Claims Tribunal, Salem in M.C.O.P.No.1456 of 2006, the instant appeal has been filed by the Insurance company.

4.Heard Ms.R.Srividya, learned Counsel for the Appellant. Despite service of notice on the respondents and their name have been printed in the cause list today, none appears on the side of the respondents.

5.According to the learned Counsel for the Appellant, the primary ground for the challenge in the instant appeal is that the driver of the vehicle insured with the Appellant did not possess a valid driving license at the time of the accident, which caused injuries to the first respondent.

6.It is settled possession of law as laid down by the Judgments of the Hon'ble Supreme Court in the case of National Insurance Co. Ltd. vs. Parvatheni & Anr. passed in SLP No. (Civil)/2009 CC 10993/2009 and S.Iyyapan vs. United India Insurance Company Limited and Another reported in (2013) 7 SCC 62 wherein the Hon'ble Supreme Court held that in case of insurance policy violation, Insurance company will have to pay the claimant and recover the same from the owner of the vehicle.

7.This Court is of the considered view that there is no merit in the instant appeal. Accordingly, the appeal shall stand dismissed. Consequently, the connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mtl/pam

To

- 1.The Motor Accident Claims Tribunal
(Additional District Judge) FTC No.II at Salem District.
- 2.The Section Officer,
Vernacular Section,
Madras High Court.

+1cc to M/S.R.Srividya, Advocate Sr.59736

सत्यमेव जयते

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srg 27/09/2018

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