

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2019

CORAM:

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.520 of 2004

and

C.M.P.No.2618 of 2004

The Oriental Insurance Co. Ltd.
Hosur.

.. Appellant /2nd Respondent

Vs.

1.Loganathan 1st Respondent/Claimant

2.D.Thiyagarajan ... 2nd Respondent/1st Respondnet

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 30.06.2003 made in O.P.No.454 of 2002 on the file of the Motor Accidents Claims Tribunal, First Additional District Judge, Dharmapuri at Krishnagiri.

For Appellant : Mr.S.Arunkumar
For Respondent : No appearance

J U D G M E N T

This appeal is preferred by the Insurance company as against the award for a sum of Rs.15,500/- towards compensation for the injuries sustained by the first respondent/claimant in a motor vehicle accident.

2.Despite ordering notice for more than five occasions, the appellant has not taken proper steps to serve the copy of this appeal to the respondents even at this length of time. Further, except the decree copy, nothing is available before this Court to analyze the award passed by the Tribunal. However, considering the fact that the appeal is of the year 2004, this Court is inclined to dispose of this appeal, on the basis of the available documents.

3.The learned counsel appearing for the appellant/Insurance Company submitted that the Tribunal erred in holding that the appellant is liable to pay compensation, despite the fact that the insured has violated the policy condition. He further

submitted that the accident occurred on 04.11.2001 and the driving license of the driver of the offending vehicle has expired on 18.05.2001 and the same was not renewed till R.W.1 deposed before the Tribunal. In other words, as on the date of accident, the driver of the vehicle did not possess a valid licence to drive the vehicle, which is a violation of the policy condition. Therefore, the Insurance Company cannot be mulcted with liability to pay compensation to the claimant. Hence, the learned counsel prayed to set aside the finding of the Tribunal fixing the liability on the appellant insurance company.

4.From a perusal of the documents available before this Court, it is seen that the accident had occurred on 04.11.2001, in which, the first respondent, aged 50 years, sustained injuries. Hence, he claimed a compensation of Rs.50,000/-. The Tribunal, based on the oral and documentary evidence, awarded a compensation of Rs.15,500/- with interest at 9% p.a from the date of petition. There is no dispute with regard to the occurrence and the injuries sustained by the first respondent/claimant in the same. Though the appellant Insurance Company resisted the claim on the ground of violation of the policy condition by the insured, this Court is of the view that the Tribunal has passed the award on 30.06.2003, against which, this appeal has been preferred by the insurance company, in the year 2004 and the same was taken up for final disposal only in 2019; at this distant point of time, it may not be proper to go into the question of liability fixed on the appellant insurance company, that too, only with the copy of the decree. Further, the Tribunal has awarded only a sum of Rs.15,500/- as compensation for the injuries sustained by the first respondent/claimant, which cannot be said to be excessive or exorbitant taking note of the price index, which prevailed by then. Hence, this Court is inclined to confirm the award so passed by the Tribunal and the same is accordingly confirmed.

5.In fine, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed. The appellant/Insurance Company is directed to deposit the award amount with interest and costs, after deducting the amount, if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal shall transfer the same to the savings bank account of the first respondent/claimant through RTGS, within a period of one week thereafter.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

rst/rk

To

1.The First Additional District Judge,
Motor Accident Claims Tribunal,
Dharmapuri at Krishnagiri.

+lcc to Mr.S.Arunkumar, Advocate, S.R.No. 48189

C.M.A.No.520 of 2004

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