

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2025 of 2011

and

M.P.No.1 of 2011

The New India Assurance Company Limited,
No.490-A, I Floor, Avinashi Road,
Near Nava India, Peelamedu,
Coimbatore - 641 004. .. Appellant/Respondent 3

Vs.

1.Sanathi ..Respondent/Appellant
2.S.Manoj ..Respondent/Respondent 1
3.P.Soundararajan ..Respondents/Respondent 2

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 08.12.2009 made in M.C.O.P.No.704 of 2008 on the file of Motor Accident Claims Tribunal (I Additional Sub Court), Coimbatore.

For Appellant : Mr.S.Manohar
For Respondents : No appearance

JUDGMENT

The third respondent before the Tribunal, is the appellant herein.This Civil Miscellaneous Appeal has been filed against the order and Decree dated 08.12.2009 made in M.C.O.P.No.704 of 2008 on the file of Motor Accident Claims Tribunal (I Additional Sub Court), Coimbatore.

2. The findings rendered by the Tribunal fixing the liability for rash and negligent driving of the driver of the second respondent's vehicle, are not in dispute. The Insurance Company, namely the appellant herein has specifically pleaded that at the time of the accident, the second respondent-Manoj was a minor and was not having any valid driving licence at that time.

3. Taking into consideration of the fact that at the time of the accident, the driver of the two wheeler, namely the second respondent herein is a minor and does not have

valid licence, the Tribunal has directed the Insurance Company to pay the compensation and to recover the same from the owner and the Tribunal has held that being the insurer-the appellant herein was directed to pay the amount and recover the same from the second and third respondents.

4. After going through the findings of the Tribunal and also the law settled on this point, taking note of the fact that on the date of the accident, the second respondent herein was not possessing any valid driving licence and the pay and recover method adopted by the Tribunal cannot be interfered with and after going through the quantum of award passed before the Tribunal with regard to the various heads, it does not appear to be excessive and hence, the quantum of compensation awarded by the Tribunal is confirmed and pay and recover option granted to the appellant herein is also confirmed.

5. In view of this matter, this Civil Miscellaneous Appeal is dismissed. The Insurance Company has submitted that the entire amount has already been deposited. It is open to the claimant to file petition before the Tribunal for withdrawal of the compensation amount. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

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To

1. The Motor Accident Claims Tribunal
(I Additional Sub Court), Coimbatore.

2. The Section officer
VR Section, High Court, Madras 104.

+1 CC to Mr.S.Manohar, Advocate sr 15072.

C.M.A.No.2025 of 2011 and
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AD (CO)
SP (26/04/2019)