

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3193 of 2011
and
M.P.No.1 of 2011

The Oriental Insurance Company Limited,
The Branch Office,
No.81-C, K.R.C. Complex,
Chennai Salai, Krishnagiri
... Appellant / 2nd Respondent

Vs.

1.Mr.Munusamy
2.Mr.V.Pandiyan
(2nd respondent exparte in lower Court
and hence, notice may be dispensed with)
... Respondents / 1st Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 29.04.2011 made in M.C.O.P.No.502 of 2010 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court, Dharmapuri.

For Appellant : Mr.M.B.Gopalan

For R1 : Mr.S.Sathiaseelan
For R2 : Expart

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the order and Decree dated 29.04.2011 made in M.C.O.P.No.502 of 2010 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Fast Track Court, Dharmapuri.

2. The Tribunal, after taking into consideration the oral and documentary evidence, awarded a compensation of Rs.40,000/- with interest at 7.5% per annum.

3. Heard both sides.

4. The first respondent who suffered injury in the road accident has filed the above Claim Petition alleging that on 14.11.2009 at about 4.30 a.m while he was driving the bullock cart from the Palacode to Vellichanthai near the sugarmill gate. At the time, the TATA 909 TNU 4173 tempo driving by the driver of the first respondent in a rash and negligent manner against the Palacode gate and he sustained injury.

5. The appellant-Insurance Company resisted the claim on the ground that at the time of the accident, the driver of the tempo does not possess the necessary badge to drive the Tata 909 TNU 4173 which according to the appellant-Insurance Company is having the weight, over and above 7500 liters weight the required kilos and hence required badge endorsement.

6. It is evident from the records that as per the Exhibit R1 Motor Vehicle's report, driver of the vehicle has valid licence to drive LMV vehicle, however the same is without badge.

7. Taking into consideration, the vehicle involved is Tata 909 TNU 4173 and taking into account the fact that the above vehicle is a Light Motor Vehicle and in view of the admitted position as could be seen from Exhibit R1, this Court is of the considered view that pay and recovery has to be ordered.

8. Accordingly, the appellant-Insurance Company is directed to satisfy the award and recover the same from the owner of the vehicle. The rash and negligent on the part of the driver of the first respondent vehicle is not disputed. After going through the heads of compensation, this Court is of the considered view that the compensation awarded by the trial Court is just and reasonable.

9. Accordingly, this Civil Miscellaneous Appeal is allowed. The learned counsel for the Insurance Company stated that the entire award amount has already been deposited. Hence, the claimant is permitted to withdraw the entire award amount within a period of eight weeks from the date of receipt of a copy of this judgment. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal,
Additional District Court,
Fast Track Court, Dharmapuri.

+lcc to Mr.M.B.Gopalan, Advocate Sr.17807

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M.P.No.1 of 2011

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