

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.657 of 2015

and

C.M.P.No.1 of 2015

M/s. United India Insurance Company Limited
Divisional Office - 1, 2nd Floor,
104-A, Peramanur Main Road,
Salem - 636 007.

....Appellant/2nd Respondent

Vs.

1. Pappa1st Respondent/ Petitioner

2. Senthilkumar2nd Respondent/ 1st Respondent

[1st Respondent having been
remained absent and set
exparte before the Tribunal]

Prayer: Civil Miscellaneous Appeal is filed under Section
173 of Motor Vehicles Act, 1988, against the award and decree,
dated 18.12.2013 made in M.C.O.P.No.1596 of 2009 on the file of
M.C.O.P. [Special Sub-Judge-II], Salem.

For Appellant : Mr.T.Ravichandran

For Respondents: No Appearance

J U D G M E N T

This Civil Miscellaneous Appeal is filed against the
judgment and decree dated 18.12.2013, in M.C.O.P.No.1596 of
2009, on the file of Special Sub-Judge-II, Salem.

2.The appellant-Insurance Company is 2nd respondent in
M.C.O.P.No.1596 of 2009, on the file of Special Sub-Judge-II,
(Motor Accident Claims Tribunal), Salem. The respondents 1 & 2
filed the said claim petition, claiming a sum of Rs.66,500/- as
compensation for the injuries sustained by her in the accident
that took place on 27.07.2006.

3.The Tribunal, considering the pleadings, oral and documentary evidence held that the accident occurred due to the rash and negligent driving by the driver of the motor cycle belonging to the first respondent, bearing Registration No.TN-30-D-4415 and directed the appellant to pay a sum of Rs.66,500/- as compensation to the first respondent.

4.Challenging the said award dated 18.12.2013, in M.C.O.P.No.1596 of 2009, granting compensation to the first respondent, the appellant-Insurance Company has come out with the present appeal.

5. The learned counsel appearing for the appellant contended that the first respondent did not possess any valid driving licence. The Tribunal has failed to see that the first respondent did not produce any document or material with regard to the nature of work and income. The reasons given by the Tribunal for awarding the compensation is unsustainable.

6.Though the 1st respondent entered appearance through counsel, there is no representation either in person or through counsel.

7.Heard the learned counsel appearing for the appellant and perused all the materials available on record.

8.From the materials on record, it is seen that the contention of the appellant is that the 1st respondent did not possess any driving licence at the time of accident. The said contention was considered by the Tribunal and it was rejected on the ground that the appellant has not examined any official from the Regional Transport Office to prove the said contention. Further the Tribunal has taken not of the fact that the Driver of the vehicle was not prosecuted under Section 3 r/w Section 181 and held that based on the letter issued by the Appellant alone it cannot be held that the Driver did not possess Driving Licence. The reason given by the Tribunal is cogent and valid and there is no error in the award warranting interference by this Court. As far as the quantum of compensation is concerned, the compensation of Rs.66,500/- awarded by the Tribunal under different heads is not excessive.

9.In the result, this Civil Miscellaneous Appeal is dismissed and sum of Rs.66,500/- awarded by the Tribunal as compensation to the 1st respondent/claimant along with interest and costs is confirmed. The appellant-Insurance Company is directed to deposit the award amount along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this

judgment to the credit of M.C.O.P.No.1596 of 2009. On such deposit, the 1st respondent/claimant is permitted to withdraw the award amount as per the ratio of apportionment fixed by the Tribunal, along with interest and costs, after adjusting the amount, if any already withdrawn, by filing necessary applications before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

msm

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Special Sub-Court-II, Salem.
2. M/s. United India Insurance Company Limited
Divisional Office - 1, 2nd Floor,
104-A, Peramanur Main Road,
Salem - 636 007.
3. The Section Officer, V.R.Section,
High Court of Madras, Chennai-600 104.

+1cc to Mr.T.Ravichandran, Advocate, SR.No.3760

C.M.A.No.657 of 2015

Kak(18/06/2019)

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