

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 21.02.2019
CORAM:
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY
C.M.A.No.56 of 2013
and M.P.No.1 of 2013

United India Insurance Company
Limited, (Motor Third Party Cell)
No.38, Anna Salai,
Chennai 2.

... Appellant/2nd Respondent

..Vs..

1.N.Raman
2.B.Shankar

... 1st Respondent/Petitioner

... 2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 07.09.2009 in M.C.O.P.No.3595 of 2006 on the file of the Motor Accidents Claims Tribunal, III Judge, Court of Small Causes, Chennai.

For Appellant : Mr.M.Krishnamoorthy

For Respondent -1 : No appearance

For Respondent -2 : Set -Ex-parte before the Claims Tribunal

JUDGMENT

The appellant is the United India Insurance Company Limited, Chennai. The first respondent/claimant filed a claim petition in M.C.O.P.No.3595 of 2006 on the file of the Motor Accidents Claims Tribunal, III Judge, Court of Small Causes, Chennai, seeking a compensation of Rs.2,00,000/- for the injuries sustained by him in a road accident that took place on 08.08.2006.

2.At about 13.30 hours, when the first respondent/claimant was driving an autorickshaw, bearing Registration No. TMA 1539 along with his wife Malliga on Medavakkam Tank Road from North to South direction, and was nearing ESI Hospital, Chennai, a motorcycle bearing Registration No. TN 05 M 1507 belonging to the second respondent, dashed the said autorickshaw, as a result of which, the first respondent/claimant sustained grievous injuries.

3.The case of the first respondent/claimant is that due to the rash and negligent riding the motorcycle by the second respondent, the cause of the accident had occurred and that since the said motorcycle was insured with the present appellant / United India Insurance Company Limited on behalf of the second respondent and the present appellant is liable to pay compensation to the injured claimant/ first respondent.

3. The owner of the motorcycle bearing Registration No. TN 05 M 1507 absent before the Tribunal and therefore, he was set ex-parte. The present appellant/ United India Insurance Company Limited contested the above said claim petition by filing a counter. The claims Tribunal, after analysing the evidence on record, awarded a compensation of Rs.89,000/- together with interest at the rate of 9.5% per annum to the first respondent/claimant.

4.The compensation awarded by the Tribunal under various heads is extracted hereunder:

S.No	Head	Amount granted
1.	Loss of earning	Rs.10,000/-
2.	Transport to hospital	Rs.2,000/-
3.	Extra Nourishment	Rs.2,000/-
4.	Medical expenses	Rs.20,000/-
5.	Pain and sufferings	Rs.5,000/-
6.	Permanent disability	Rs.50,000/-
Total		Rs.89,000/-

5. Aggrieved over the award passed by the Claims Tribunal, the appellant/ United India Insurance Company Limited, Chennai has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988, challenging the liability fixed on them.

6.Mr.M.Krishnamoorthy, learned counsel for the appellant contended that in the instant case the driver of the motorcycle bearing Registration No. TN 05 M 1507 was not in possession of a valid driving license on the date of the accident. He further submitted that no plea was taken in this regard, in the counter filed by the Insurance Company before the Tribunal. Further, the driver of the motorcycle was also not examined.

7.Heard, the learned counsel for the appellant and none appeared on behalf of the first respondent/claimant.

8. On perusal of the entire records placed before this

Court, it is seen that the appellant Insurance Company has not taken any plea regarding the non-possession of driving license by the driver of the offending vehicle, at the time of trial, before the Tribunal. Moreover, in order to substantiate the same, no material evidence adduced on the side of the appellant/ Insurance Company. Hence, no interference is necessary in the findings of the Tribunal, so far as, the liability is concerned.

9. In the result,

(i) The Civil Miscellaneous Appeal is dismissed.

(ii) The orders passed by the tribunal in MCOP.Nos.3595 of 2006 is upheld.

(iii) The Insurance Company is directed to deposit the entire amount awarded by the tribunal equally along with interest and costs before the Tribunal within a period of two weeks from the date of receipt of a copy of this order, after deducting the amount already deposited, if any. The interest awarded by the Tribunal at the rate of 9.5% per annum is unaltered. On such deposit being made, the Tribunal shall transfer the amount to the claimant's bank account through RTGS within a period of two weeks thereon. No costs. Consequently the connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vkr

To

1. The Motor Accidents Claims Tribunal,
The III Judge,
Court of Small Causes, Chennai.

2. The Section Officer,
V.R Section,
High Court, Madras

+1cc to Mr.M.Krishnamoorthy, Advocate sr.16586

C.M.A.No.56 of 2013

gmr(co)
nr 15/11/2019