

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.124 of 2011

and

M.P.No.1 of 2011

(Through Video Conferencing)

National Insurance Company Limited,
Bye Pass Road,
Dharmapuri. Appellant/2nd Respondent

Vs.

1. Jothi

2. Yasodha 1st Respondent/ Respondent

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree in M.C.O.P.No.608 of 2009, dated 08.08.2010, on the file of the Motor Accidents Claims Tribunal (Chief Judicial Magistrate Court) at Dharmapuri.

For Appellant : Mr.D.Bhaskaran

For Respondents :

For R1 & R2 : Not ready in notice

JUDGMENT

The Insurance Company is the appellant in this appeal. It is aggrieved by the impugned Judgment and Decree dated 08.09.2010 passed by the Motor Accidents Claims Tribunal (Chief Judicial Magistrate Court, Dharmapuri) in M.C.O.P.No.608 of 2009.

2. The notice on the respondents has remained unserved as they are untraceable. Since no adverse orders are proposed to be passed against the respondents, this civil miscellaneous appeal is taken up for final hearing and is disposed by this Judgment.

3. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.68,000/- together with interest at 7.5% per annum as against a total claim of Rs.5,00,000/- from the date of filing of the claim petition till the date of payment, to the first respondent/claimant.

4. The first respondent/claimant was the injured person who met with an accident on 11.09.2003. He stated that he was working as cleaner in the insured mini door vehicle bearing Registration No.TN-29-F-2907 which met with an accident. The accident resulted in dislocation and fracture of his left leg right side foot and injuries over his right leg knee and other injuries. The Tribunal after considering the evidences on records has awarded a sum of Rs.68,000/-.

5. The main ground on which the present appeal has been filed is that, the first respondent was an unauthorized person of the mini door vehicle. However, the RC Book has not been filed by the appellant to substantiate the same. In any event, the notice on the contesting respondents has also not been served. I am therefore of the view that this appeal can be dismissed without further deliberation as the accident is of the year 2003 and the award is of the year 2010.

6. If the amount of compensation awarded by the Tribunal has not been deposited by the appellant Insurance Company, it is directed to deposit the same together with interest at 7.5% per annum from the date of filing of the claim petition till the date of such deposit, less the amount already deposited if any, within a period of six weeks from the date of receipt of the copy of this Judgment.

7. On such deposit, the first respondent/claimant is entitled to withdraw the same together with interest as directed by the Tribunal, less if any amount already withdrawn, by filing suitable application before Tribunal.

8. This Civil Miscellaneous Appeal is dismissed with the above observation. No cost. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

arb

To: The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate Court,
Dharmapuri.

Copy to:

The Section Officer, VR Section, High Court, Madras.

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A.SK(19.01.2021)