IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.08.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1513 of 2013
and
M.P.No.1 of 2013

United India Insurance Company Ltd.,
SNS Complex
L.B Road, Adyar
Chennai-600 020. ... Appellant/2nd Respondent

..Vs..

1.M.Venkatesan ...Ist Respondent/Petitioner

2.K.Senthil Kumar ...IInd Respondent/Ist Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 11.06.2012 made in MCOP.No.2383 of 2008, on the file of the Motor Accident Claims Tribunal (III Court of Small Causes), Chennai.

For Appellant : Mr.D.Bhaskaran

For Respondents : Mr.C.Munuswamy for R1

J U D G M E N T

(This Appeal was taken up for hearing through Video Conferencing)

This appeal has been filed by the Insurance Company challenging the award dated 11.06.2012 passed by the Motor Accident Claims Tribunal/ III Small Causes Court, Chennai, in MCOP No.2383 of 2008.

2. The Appellant Insurance Company has challenged the award on the following grounds:

a) They are not liable to compensate the claim of the first respondent/claimant since the driver of the Auto was not possessing the necessary badge in his driving license.

b) The quantum of compensation awarded by the Tribunal is excessive.

3. The Tribunal, under the impugned award, has directed the Insurance Company to pay the first respondent/claimant, a compensation of Rs.87,500/- together with interest and costs as detailed hereunder:

Heads	Award Amount (Rs.)
Loss of Income for 3 months	13,500/-
Transportation	3,000/-
Extra Nourishment	2,000/-
Damage to clothes	1,000/-
Medical Expenses	3,000/-
Pain and suffering	5,000/-
Disability of 30% at the rate of Rs.2000/- per disability	60,000/-
Total	87,500/-

4. Insofar as the first contention raised by the Appellant/Insurance Company is concerned, the said issue has now been well settled by the decision of the Hon'ble Supreme Court in the case of Mukund Dewangan vs. Oriental Insurance Company Limited reported in 2016 (4) SCC 298 wherein the Hon'ble Supreme Court has held that if the unladen weight of the vehicle is less than 7500 kgs, there is no necessity for the badge endorsement in the driving license.

5. Admittedly, in the case on hand, the driver of the insured vehicle was possessing LMV driving license which was marked as Ex.R2 before the Tribunal. This being the case, the aforesaid decision of the Hon'ble Supreme Court squarely applies and therefore, the Appellant/Insurance Company cannot contend that they are not liable to compensate the claim. The Tribunal has rightly considered this aspect and has directed the Appellant/ Insurance Company to pay the compensation to the first respondent/claimant.

6. Insofar as the second contention raised by the Appellant/Insurance Company is concerned, the accident is of the year 2006. The first respondent/claimant was a plumber, aged

about 26 years and in his claim petition, he has pleaded that he was earning Rs.300/- per day. He has sustained the following injuries, a) Fracture over left femur, b) Serious head injury, c) Fracture over right fingers, d) Abrasions over left ear lobe and e) Abrasions over left hand.

7. To prove his injuries, he has also filed documentary evidence before the Tribunal which were marked as Ex.P1 to Ex.P9 and three witnesses were examined on his side namely, the first respondent/claimant himself as PW1 and an eye witness, as PW2 and the Doctor who examined him as PW3. On the side of the Appellant, six documents were filed which were marked as Ex.R1 to Ex.R6 and two witnesses were examined as RW1 and RW2.

8. The Tribunal has awarded a sum of Rs.87,500/- as compensation to the first respondent/claimant and there is no scope for interference by this Court to the compensation awarded by the Tribunal to the first respondent/claimant as it cannot be treated as an excessive compensation. Accordingly, the second contention is also rejected by this Court.

Conclusion:

9. For the foregoing reasons, there is no merit in this appeal. Accordingly, this appeal is dismissed. The Appellant/Insurance Company is directed to deposit the Award amount together with interest from the date of claim till the date of deposit and costs as assessed by the Tribunal after deducting the amount already deposited, if any to the credit of MCOP.No.2383 of 2008 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount along with accrued interest to the bank account of the first respondent/claimant through RTGS within a period of two weeks thereafter. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

Copy to

1.The Judge,
IIIrd Small Causes Court,
Chennai.

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

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