

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1596 of 2013

&

M.P.No.1 of 2013

National Insurance Co. Ltd.,
Issuing Office at
63, Rasi Plaza,
West Pradhakshnam Road,
Karur - 639 002.
Divisional Office No.1,
At 930, Sathy Road,
Gandhipuram, Coimbatore - 12 ... Appellant/3rd Respondent

Vs

1.Imran Khan ...I Respondent/Petitioner
2.V.Durairaj ...II Respondent/I Respondent
3.R.Vellaisamy ... III Respondent/II Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 06.12.2012 and made in MACTOP.No.1583 of 2012 on the file of the Motor Accident Claims Special Tribunal, Coimbatore.

For Appellant : Mr.S.Vadivel

For Respondents 1 & 2: No appearance
Not ready in notice regarding R3

J U D G E M E N T

(This Appeal has been taken up for hearing through Video Conferencing)

This Appeal has been filed by the insurance company challenging the impugned award dated 06.12.2012 passed by the Motor Accident Claims Special Tribunal, Coimbatore in MACTOP.No.1583 of 2012.

2. The Appellant insurance company has filed this appeal challenging its liability to pay compensation, since the driver of the insured vehicle was not possessing a valid driving licence at the time of the accident and they have also challenged the quantum of compensation awarded by the Tribunal under the impugned award.

3. Insofar as the first contention of the Appellant is concerned, the same has been duly considered by the Tribunal in accordance with the settled law. In view of the policy violation committed by the insured, pay and recovery rights has been granted to the Appellant. There is no necessity for this court to consider the first contention raised by the Appellant in view of the settled position of law.

4. Insofar as the quantum of compensation awarded by the Tribunal is concerned, the Tribunal under the impugned award has awarded a compensation of Rs.1,41,600/- to the first respondent/claimant as detailed hereunder:

Heads	Award Amount (Rs.)
Compensation for partial permanent disability	70,000/-
Transport to Hospital	5,000/-
Extra Nourishment	5,000/-
Pain and Sufferings	20,000/-
Medical Bills	41,600/-
Total	1,41,600/-

5. The first respondent/claimant was a police constable aged 28 years at the time of the accident. According to the first respondent/claimant as seen from the claim petition, he has sustained the following injuries namely (a) head injury, (b) Fracture at right Zygoma, (c) Fracture Right Mandible, (d) Blunt injury over Right Shoulder, (e) Loss of Teeth, (f) Deep Abrasions over both elbows and (g) Multiple injuries all over the body.

6. Heard Mr.S.Vadivel, learned counsel for the Appellant. Despite service of notice on the respondents 1 & 2, there is no representation on their side.

7. Before the Tribunal, the claimant/first respondent has filed six documents which were marked as Ex.P1 to Ex.P6 and he examined himself as PW1. On the side of the Appellant/insurance company, eight documents were filed which were marked as Ex.R1 to Ex.R8 and two witnesses were examined namely RW1 and RW2. The wound certificate Ex.P2, discharge summary Ex.P3, medical bills Ex.P4 and X-ray Ex.P5 will prove that the first respondent/claimant had sustained injuries as a result of an accident caused by a vehicle insured with the Appellant.

8. The nature of the injuries sustained by the first respondent/claimant has not been disproved by the Appellant/insurance company as seen from the evidence available on record. The Tribunal has considered Ex.P2, Ex.P3, Ex.P4 & Ex.P5 and has observed that the first respondent/claimant has sustained head injuries, apart from other simple injuries.

9. The accident happened on 15.11.2010. After giving due consideration to the avocation of the first respondent/claimant who was a police constable, his age and the nature of injuries sustained, this Court is of the considered view that the compensation awarded by the Tribunal under various heads amounting to Rs.1,45,600/- is a just compensation and there is no scope for reduction by this Court.

Conclusion:

10. For the foregoing reasons, there is absolutely no merit in this appeal. Accordingly, this civil miscellaneous appeal is dismissed. The Appellant as well as the third respondent jointly and severally are directed to deposit the award amount, after deducting the amount already deposited, if any, together with interest at the rate of 7.5% per annum from the date of claim till the date of deposit and costs to the credit of MCOP.No.1583 of 2012 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 directly to the back account of the first respondent/claimant, through RTGS, within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar

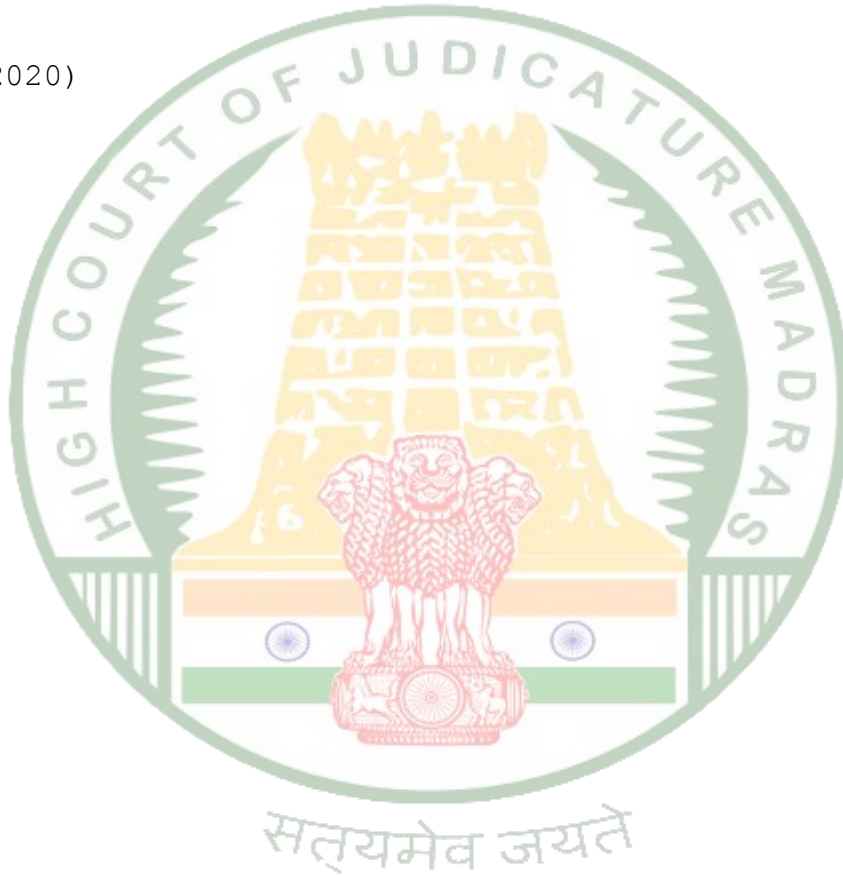
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To
1.The Special Sub Judge,
Motor Accident Claims Tribunal,
Coimbatore.

Copy to:
The Section Officer,
VR Section, High Court,
Madras.

C.M.A.No.1596 of 2013

MG (CO)
CB (08/09/2020)



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