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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.413 of 2011

(Through Video Conferencing)

The National Insurance Co. Ltd.,
Represented by its Divisional Manager,
Divisional Office,
Balaji Tower,
2nd Floor, No.11/289,
Ramakrishna Road,
Salem - 636 007.

... Appellant/2nd respondents

Vs

1.Sampath @ Sampath Kumar

... 1st respondent/Petitioner

2. P.Annadurai

... 2nd respondent/1st Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree in M.A.C.T.O.P.No.104 of 2006, dated 01.11.2010, on the file of the Motor Accidents Claims Tribunal cum Fast Track Court (Additional District Court), Dharmapuri.

For Appellant : Mr.S.Vadivel

For Respondents

For R1 : Mr.T.Sezhiah

For R2 : Not known
Exparte

JUDGMENT

The Insurance Company is the appellant in this appeal. It is aggrieved by the impugned Judgment and Decree dated 01.11.2010 passed by the Motor Accidents Claims Tribunal cum Fast Track Court (Additional District Court), Dharmapuri in



M.A.C.T.O.P.No.104 of 2006.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.2,44,072/- together with interest at 7.5% per annum from the date of filing of the claim petition, till the date of payment, to the 1st respondent/claimant herein.

3. Heard, the learned counsel for the appellant and the first respondent. Though notice was ordered, no notice has been served till date on the second respondent.

4. In this appeal, the appellant Insurance Company has been merely questioned the liability by stating that the owner of the insured TVS 50 XL moped bearing Registration No.TN-29-W-3879, the second respondent herein did not possess a valid driving license. It is therefore submitted that the appellant Insurance Company may be given liberty to pay and recover the amount from the second respondent/owner of the vehicle.

5. In the counter that was filed before the Tribunal, the appellant Insurance Company had merely stated that the rider of the TVS 50 XL bearing Registration No.TN-29-W-3879 had driven the vehicle in a rash and negligent manner without following the traffic rules and had entered into the main road, without waiting for the vehicles to pass on the main road and caused the accident.

6. However, no attempt was made by the appellant Insurance Company to raise a plea regarding the violation of policy conditions that the second respondent/owner of the vehicle did not possess a valid driving license. Therefore, the same cannot be entertained at this stage in this appeal.

7. I therefore find no merits in the present appeal. Even otherwise, it was open for the appellant Insurance Company, to summon the officers from the Regional Transport Office, to substantiate the same. Under these circumstances, the impugned Judgment and Decree passed by the Tribunal cannot be interfered.

8. Therefore, 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 eight weeks from the date of receipt of the copy of this Judgment.

9. 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.



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10. With the above observation and direction, this Civil Miscellaneous Appeal is dismissed. No cost.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

arb

Notes:-In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To: The Motor Accidents Claims Tribunal
cum Fast Track Court (Additional District Court)
Dharmapuri.

Copy to
The Section Officer,
V.R. Section
High Court, Madras-104.

+1cc to Mr.Meenal Advocate, S.R.No.28310
+1cc to Mr.S.Vadivel, Advocate, S.R.No.28218

C.M.A.No.413 of 2011

CA(CO)
CT/17/08/2021