IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 17.07.2020
CORAM
THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE
C.M.A.Nos.3586 & 3587 of 2012
and
M.P.Nos.1 & 1 of 2012

The National Insurance Company Ltd.,
Nethaji Road,
Manjakuppam, Cuddalorre. ... Appellant in both CMAs.

..Vs..

B.Muthusamy ... 1st respondent in CMA.No.3586 of 2012
P.Ramakrishnan ... 1st respondent in CMA.No.3587 of 2012

A.Sadishkumar ... 2nd respondent in both CMAs.

Common Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the common award and decree dated 22.08.2012 made in O.P.Nos.2588 & 2598 of 2007 on the file of the Motor Accident Claims Tribunal (Principal Subordinate Judge) Cuddalore.

For Appellant in both CMAs : Mr.D.Bhaskaran
R1 - not ready in notice
R2 - Exparte

COMMON JUDGMENT

(These Appeal have been taken up for hearing through Video Conferencing)

These appeals have been filed by the insurance company challenging the common award dated 22.08.2012 passed by the Motor Accident Claims Tribunal (Principal Sub Judge, Cuddalore) in MCOP.Nos.2588 & 2598 of 2007.

2. The Appellant has challenged the impugned award only on the ground that the driver of the insured vehicle did not possess a driving licence and hence, they are not liable to compensate the claimants. They have not challenged the quantum of compensation assessed by the Tribunal in these Appeals.

3. Heard, Mr.D.Bhaskaran, learned counsel for the Appellant. The second respondent has been set exparte both before the Tribunal as well as this Court. Till date service of notice has not been completed on the first respondent and since this Court is going to confirm the award, notice to the first respondent is dispensed with.

4. The contention of the Appellant that the driver of the insured vehicle did not possess a valid driving licence was duly considered by the Tribunal. The Tribunal has observed that there is no specific pleading in the counter statement filed by the Appellant that the driver was not possessing a driving licence. The Tribunal has also observed that notice which was marked as Ex.R3 sent by the Appellant to the driver of the insured vehicle was returned and the returned cover was also marked as Ex.R5. It is therefore, clear that the driver of the car insured vehicle has not received notice sent by the Appellant and therefore it cannot be conclusively inferred that the driver did not possess a driving licence.

5. This Court has also perused the counter statement filed by the Appellant before the Tribunal wherein in paragraph 4, they have specifically admitted that the vehicle is insured with them and the driver of the vehicle who caused the accident is having a valid driving licence.

6. The Tribunal has considered all these factors and has rightly rejected the contention of the Appellant.

7. This Court is in agreement with the view taken by the Tribunal under the impugned award.

8. For the foregoing reasons, this Court is of the considered view that there is no merit in both these appeals. Accordingly, these Appeals are dismissed. The Appellant insurance company is directed to deposit the award amount after deducting the amount already deposited, if any, together with interest from the date of claim till the date of deposit and costs as assessed by the Tribunal to the credit of MCOP.Nos.2588 & 2598 of 2007 within a period of four weeks from the date of receipt of a copy of this Judgement. On such deposit being made, the respective first respondents are permitted to withdraw their respective award amount along with accrued interest lying to the credit of MCOP.Nos.2588 & 2598 of 2007 by filing appropriate

applications. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Asst.Registrar

/true copy/
Sub Asst. Registrar

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To

1.The Principal Subordinate Judge
(Motor Accident Claims Tribunal)
Cuddalore

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

C.M.A.Nos.3586 & 3587 of 2012

ssv(co)
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