

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3640 of 2014

M/s.Universal Sampo General Insurance Co. Ltd.,
The Registered Office,
No.201, Crystal Plaza,
Opp. Infinity Hall, Link Road,
Andheri (West), Mumbai - 400 058.
Maharashtra State.

...Appellant/3rd Respondent

vs.

1. A.Palanisamy ... Respondent1/Claimant
2. P.Dinesh Kumar
3. S.Murugesan ...Respondents2& 3/ Respondents1&2

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree in MCOP.No.908 of 2010, dated 04.01.2013 on the file of the Motor Accident Claims Tribunal, III Additional District Court, Dharapuram.

For Appellant : Mr.E.Rajadurai

For Respondents : Served - no appearance - R2
Not ready in notice reg. R1 & R3

JUDGMENT

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

This appeal has been filed by the Insurance Company challenging the award dated 04.01.2013 passed by the Motor Accident Claims Tribunal (III Additional District Court), Dharapuram in MCOP. No.908 of 2010.

2. The Insurance Company has not challenged the quantum compensation awarded by the Tribunal. But, they have only challenged their liability to pay the compensation.

3. The first respondent sustained injuries as a result of an accident caused by a Maruti Omni Van bearing registration No. TN 33 AZ 3340 owned by third respondent and insured with the appellant. The first

respondent/claimant preferred a claim before the Motor Accidents Claims Tribunal, Dharapuram in MCOP No.908 of 2010 seeking compensation for the injuries sustained by him, as a result of the accident, which occurred on 28.04.2010

4. By an award dated 04.01.2013 in M.C.O.P. No.908 of 2010, the Motor Accidents Claims Tribunal, III Additional District Judge, Dharapuram, directed the appellant/insurance company to pay the first respondent / claimant compensation of Rs.1,20,800/- together with interest @ 7.5.% per annum from the date of claim petition till the date of deposit and also awarded costs.

5. The break-up details of the compensation awarded by the Claims Tribunal in favour of the first respondent/claimant are as follows:

Heads	Amount awarded by the Tribunal (Rs.)
Permanent disability	60,000/-
Loss of income for 6 months	21,000/-
Transportation	5,000/-
Extra nourishment	5,000/-
Loss of pain and suffering	20,000/-
Medical expenses	4,800/-
Future medical expenses	5,000/-
Total	1,20,800/-

6. Aggrieved by the award dated 04.01.2013 passed in M.C.O.P. No.908 of 2010, this appeal has been filed by the Appellant / Insurance Company.

7. Heard Mr.E.Rajadurai, learned counsel for the Appellant / Insurance Company and there is no representation on behalf of the second respondent.

8. According to the learned counsel for appellant/Insurance company, the driver of the Maruthi Omni Van which is insured with them, was not possessing a four wheeler driving license at the time of the accident and therefore, they are not liable to compensate the claim.

9. As seen from the impugned award, the Tribunal has granted pay and recovery rights to the appellant/insurance company in view of the fact that the

driver of the insured vehicle was not possessing a valid driving license to drive a four wheeler.

10. It is now well settled that in case of non possession of a driving license by the driver of the insured vehicle, the insurer is liable to compensate the claimant and recover the same from the insured I.e. the owner of the alleged vehicle. This right has already been granted by the Tribunal under the impugned award.

11. In such circumstances, there is no merit in this appeal and the same shall stand dismissed.

12. The Appellant/Insurance Company is directed to deposit the Award amount together with interest from the date of claim petition till the date of deposit and costs, as assessed by the Tribunal, after deducting the amount, if any, already deposited, to the credit of MCOP.No.908 of 2010, 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 amount to the bank account of the first respondent/claimant through RTGS within a period of two weeks thereafter.

13. In the result, this appeal is dismissed. There is no order as to costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
III Additional District Judge, Dharapuram.

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

C.M.A.No.3640 of 2013

A.SK(19.01.2021)