



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.10.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3720 of 2013

(Through Video Conferencing)

S.Rangasami

... Appellant/Claimant

vs.

1.H.Kesavan

2.M.David Joseph

3.S.K.Karthikeyan

4.The National Insurance Co., Ltd.,
Branch-II,
92, Thevarpuram Road,
Tuticorin.

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Judgment and Decree dated 20.01.2009 made in M.C.O.P.No.878 of 2005, on the file of the Motor Accidents Claims Tribunal, (1st Additional Sub Court) Coimbatore.

For Appellant: Mr.Govi Ganesan

For R1 : M/s.S.Poonarasi

For R4 : M/s.N.B.Surekha

J U D G M E N T

This Civil Miscellaneous Appeal has been filed against the impugned Judgment and Decree dated 20.01.2009 passed by the Motor Accident Claims Tribunal, (1st Additional Sub Court) Coimbatore in M.C.O.P.No.878 of 2005.

2. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.6,69,600/- as compensation together with interest at 7.5% from the date of the claim petition till the date of deposit, to the appellant/claimant.

3. By the impugned order, the Tribunal has exonerated the 4th respondent -Insurance Company and on the ground that the driver did not possess valid driving licence at the time of



accident. Aggrieved by the same, the appellant-claimant has filed the present Civil Miscellaneous Appeal.

4. The learned counsel for the appellant submitted that the Tribunal ought to have ordered the 4th respondent-Insurance Company to pay the amount of compensation to the appellant as per the decision of the Hon'ble Supreme Court in Oriental Insurance Co. Ltd. Vs. Nanjappan and Others, (2004) 13 SCC 224 and recover the amount from the 2nd respondent owner of the vehicle.

5. It is submitted that the 2nd respondent herein owner of the vehicle who transferred it in the name to the 3rd respondent.

6. Heard the learned counsel for both sides.

7. It is noticed that non possession of the driving licence is only a violation of the terms of policy conditions and therefore there is no ground for exonerating the Insurance Company to pay the compensation as per the decision of the Hon'ble Supreme Court in Oriental Insurance Co. Ltd. Vs. Nanjappan and Others, (2004) 13 SCC 224. Therefore, the 4th respondent - Insurance Company is liable to pay the compensation with liberty to recover the same from the owner of the vehicle.

8. Therefore, the 4th respondent Insurance Company is directed to deposit the compensation of Rs.6,69,600/- awarded together with interest at 7.5% from the date of claim petition till the date of deposit and costs, less any amount already deposited, within a period of six weeks from the date of receipt of a copy of this Judgment.

9. On such deposit, the appellant/claimant is permitted to withdraw the same together with interest and costs, less any amount already deposited, by filing suitable application.

10. Liberty is given to the 4th respondent - Insurance Company to take appropriate steps to recover the amount from the 2nd and 3rd respondents owner of the insured vehicle in terms of the decision of the Hon'ble Supreme Court in Oriental Insurance Co. Ltd. vs. Nanjappan and Others, (2004) 13 SCC 224, in accordance with law.



11. Accordingly, this Civil Miscellaneous Appeal is allowed.
No cost.

WEB COPY

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kkd

To:

The Motor Accident Claims Tribunal,
(1st Additional Sub Court) Coimbatore.

Copy to

The Section Officer,
VR Section, High Court,
Chennai.

+lcc to M/s.K.Govi Ganesan, Advocate Sr.33199

+lcc to M/s.N.B.Surekha, Advocate Sr.33220

C.M.A.No.3720 of 2013 and

M.P.No.1 of 2013

ad[co]

srg 18/11/2021