

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2768 of 2014

M/s.National Insurance Company Ltd.,
Balaji Towers, 11, Ramakrishna Road,
Salem - 7.

....Appellant/2nd Respondent

vs.

1.V.Chinnasamy @ Chinnusamy, ... Respondent/ Petitioner
2.R.Muthukumar2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 27.03.2014 made in O.P.No.740 of 2012 on the file of the Motor Accidents Claims Tribunal (Special Sub Court), Salem.

For Appellant : Mr.D.Bhaskaran

For Respondents : R1 and R2 - served - No appearance

JUDGMENT

(This appeal was heard through the Video Conferencing)

This appeal has been filed by the Insurance Company challenging the Award dated 27.03.2014 passed by the Motor Accident Claims Tribunal, (Special Sub Court No.2) Salem in MCOP.No.740 of 2012.

2.Heard Mr.D.Bhaskaran, learned counsel for the Appellant. Despite the names of the respondents having been printed in the cause list, there is no appearance on their side.

3.The Appellant Insurance Company has challenged the Award primarily on the ground of its liability to pay the compensation. Their contention is that the claimant was a gratuitous passenger in a goods vehicle (insured vehicle) and therefore, they are not liable to compensate the claimant. The Tribunal under the impugned Award has directed the Appellant to pay the claimant a sum of Rs.1,60,500/- together with interest and costs.

4.The details of the compensation awarded under the impugned Award are as follows:

40% Permanent disability (Rs.2,000 x 40)	-	Rs.80,000/-
Pain and suffering	-	Rs.20,000/-
Medical expenses	-	Rs.33,800/-
Loss of Amenities	-	Rs.10,000/-
Transport	-	Rs.2,000/-
Extra nourishment	-	Rs.3,000/-
Attender charges	-	Rs.3,000/-
Damages to clothing	-	Rs.700/-
Loss of income	-	Rs.8,000/-

Total		Rs.1,60,500/-

5.The only contention raised by the Appellant Insurance Company namely that the claimant was a gratuitous passenger has been duly considered by the Tribunal under the impugned Award.

6.The Tribunal has observed that the Appellant's witness RW1 has admitted during his cross examination that the insured has paid the insurance premium to cover two employees. The Tribunal has also taken into consideration the FIR which was marked as Ex.A1 wherein it is not stated that the claimant was a gratuitous passenger.

7.Admittedly, as seen from the evidence available on record only two persons travelled in the insured vehicle and no iota of evidence as contended by the Appellant Insurance Company that the claimant had travelled on top of the goods vehicle is available on record. The Tribunal has rightly considered the materials and evidence available on record and only thereafter has come to the conclusion that the Appellant is liable to compensate the claimant.

8.This Court is in agreement with the findings given by the Tribunal.

9.For the foregoing reasons, this Court is of the considered view that there is no merit in this appeal.

10.Accordingly, the appeal shall stand dismissed. The Appellant Insurance Company is directed to deposit the entire amount awarded by the Tribunal after deducting the amount already deposited if any, together with interest at the rate of 7.5% from the date of the claim till the date of realization to the credit of M.C.O.P.No.740 of 2012 on the file of the Motor Accidents Claims Tribunal (Special Sub Court No.2), Salem, within a period of four weeks from the date receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the bank account of claimant/first respondent, through RTGS, within a period of two weeks thereafter. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

pam

To

1.The Motor Accidents Claims Tribunal,
(Special Sub Court No.2), Salem.

2.The Section Officer,
Vernacular Section,
Madras High Court.

MG co

C.M.A.No.2768 of 2014

A.SK(19.01.2021)



WEB COPY