

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.663 of 2014

and

M.P.No.1 of 2014

The National Insurance Company Limited,
No.7, Raja Street,
B.B.No.19, Gobichettipalayam

... Appellant/3rd Respondent

...Vs...

1.Karunaiammal ...1st Respondent/Claimant

2.C.Prabhu ...2nd Respondent/1st Respondent

3.D.Saravanan ...3rd Respondent/2nd Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside decree and judgment passed in MACTOP No.21 of 2010 dated 26.07.2012 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Sathyamangalam.

For Appellant : Mrs.N.B.Surekha

For R1 : Mr.V.P.Karthikeyan

For R2 : Batta due

For R3 : No Appearance

J U D G M E N T

(This Appeal has been taken up for hearing through Video conferencing)

This Appeal has been filed by the Insurance Company challenging the Award dated 26.07.2012 passed by the Motor Accident Claims Tribunal, Subordinate Court, Sathyamangalam in MCOP.No.21 of 2010.

2. The Tribunal, in the impugned award, directed the appellant/Insurance Company to pay the first respondent/claimant, the compensation of Rs.1,46,390/- together with interest and cost as detailed here under :

Heads	Amount awarded by the Tribunal (Rs.)
Pain and Suffering	30,000.00
Attendant Charges	12,000.00
Extra Nourishment	6,000.00
Transportation Charges	500.00
Loss of Income	12,000.00
Medical Expenses	21,890.00
Permanent Disability	64,000.00
Total	1,46,390.00

3. The Appellant/Insurance Company has not challenged the quantum of compensation awarded by the Tribunal and the only ground raised by them in this appeal is that they are not liable to compensate the claim of the first respondent, since the rider of the motor cycle (insured vehicle) was not possessing driving license at the time of accident.

4. The Hon'ble Supreme Court in the case of National Insurance Company vs. Swaran Singh & Others reported in 2004 (3) SCC 297 held that in case, a driver/rider was not possessing a driving licence at the time of the accident, the insurance company will have to pay the compensation amount and recover the same from the (insured) owner of the vehicle.

5. The Tribunal under the impugned award has rightly granted pay and recovery rights to the appellant by following the settled position of law.

6. For the foregoing reasons, there is no merit in this appeal. Accordingly, this appeal is dismissed. The Appellant Insurance Company is directed to deposit the compensation awarded by the Tribunal along with interest from the date of claim till the date of deposit and costs after deducting the amount already deposited if any to the credit of MCOP.No.21 of 2010 within a period of four weeks from the date of receipt of a copy of this Judgment and recover the same from the (insured) owner of the vehicle. On such deposit being made, the Tribunal shall transfer the award amount along with accrued interest lying to the credit of MCOP No.21 of 2010 to the bank account of

the first respondent/claimant through RTGS within a period of two weeks thereafter. No costs. Consequently connected Miscellaneous Petition is closed.

s/d-
Assistant Registrar(CS I)

True Copy

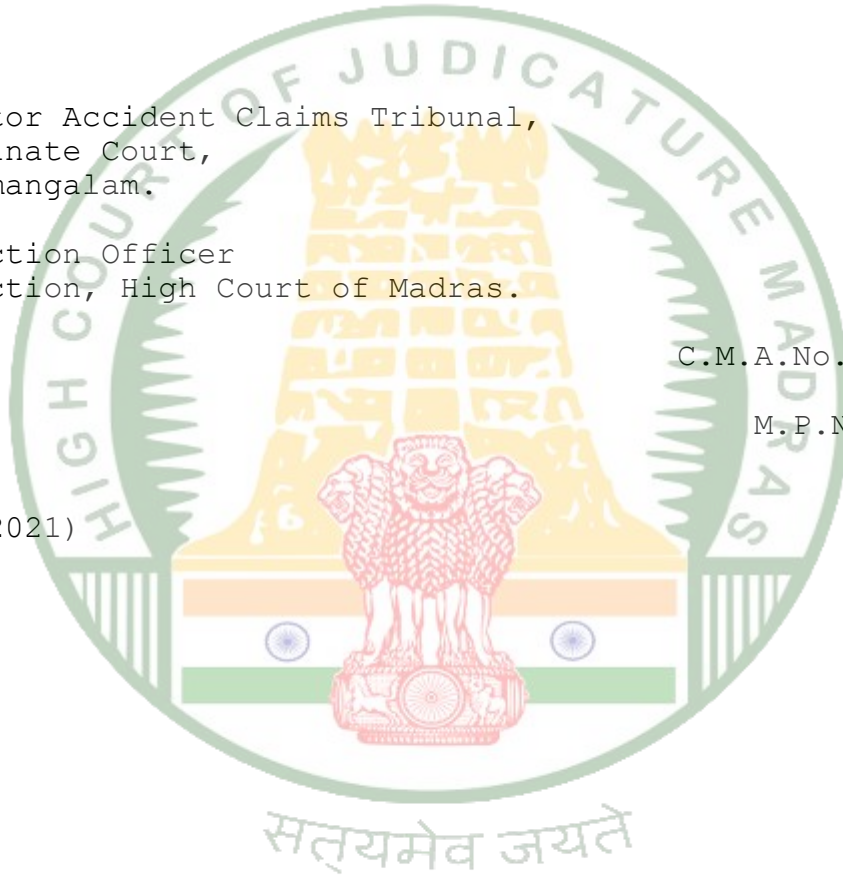
Sub-Assistant Registrar

lpp
To

1. The Motor Accident Claims Tribunal,
Subordinate Court,
Sathyamangalam.
2. The Section Officer
V.R.Section, High Court of Madras.

C.M.A.No.663 of 2014
and
M.P.No.1 of 2014

VBA (CO)
SP(26/04/2021)



WEB COPY