



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.02.2020

CORAM:

THE HONOURABLE **MRS. JUSTICE R. THARANI**

C.M.A.(MD)No.164 of 2015

and

M.P.(MD)No.1 of 2015

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The Oriental Insurance Co.Lt.d.,

Represented by its Branch Manager,

Library Building,

Town Hall Road,

Kumbakonam Town,

Thanjavur District.

... Appellant/Respondent No.2

Vs.

1.Rajan

...Respondent No.1/Petitioner

2.Muruganantham

... 2nd Respondent/Respondent No.1

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicle Act, 1988, against the award made in M.C.O.P.No.278 of 2010, dated 05.07.2013, on the file of the Motor Accidents Claims Tribunal / III Additional District Judge, Pattukkottai.

For Appellant

: Mr.S.Veeranasamy

For R1

: Mr.S.Deenadhayalan

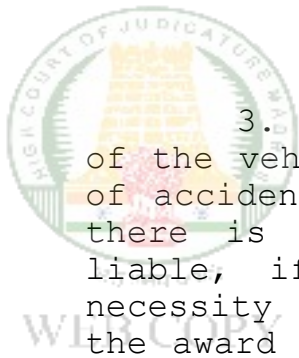
For R2

: No appearance

JUDGMENT

This Civil Miscellaneous Appeal is filed against the award made in M.C.O.P.No.278 of 2010, dated 05.07.2013, on the file of the Motor Accidents Claims Tribunal / III Additional District Judge, Pattukkottai.

2. M.C.O.P.No.278 of 2010, was filed by the first respondent / claimant, praying compensation for the injuries sustained by him, in the accident, dated 16.01.2010, when the petitioner was travelling in his two wheeler near Tiruchitrampalam Kattachigundru another two wheeler bearing Registration No.TN 47-AX-7551 was driven by its driver in a rash and negligent manner, dashed against the vehicle and caused the accident. Due to the accident, the first respondent herein / claimant got injuries. The Tribunal awarded a sum of Rs.2,00,000/- as a compensation to the petitioner. Against which, the Appellant preferred this Civil Miscellaneous Appeal.



3. On the side of the appellant, it is stated that the driver of the vehicle was not holding a valid driving licence at the time of accident. There is breach of policy conditions. Even though there is a third party coverage, the insurance company is not liable, if there is breach of contract and that there is no necessity for the appellant to indemnify the first respondent and the award amount is excessive and prayed the award is liable to be set aside.

4. On the side of the first respondent, it is stated that the Tribunal has rightly awarded the compensation, which does not require any interference.

5. A perusal of the records reveals that the Tribunal has fixed the liability on the insurance company on the basis of the insurance certificate marked as Ex.P3. There is no dispute regarding the involvement of the vehicle in the accident. The claimant is a third party and there is a third party coverage in the policy. The claimant had sustained injuries, which is evident from Ex.P4, Ex.P6 and Ex.P11. Income of the claimant was proved by way of Ex.P7. Medical Bill of the claimant was proved by way of EX.P10.

6. In the above circumstances, there is nothing wrong in the fixation of compensation by the Tribunal and there is no merit in this Civil Miscellaneous Appeal.

7. Hence, this Civil Miscellaneous Appeal is dismissed and the award passed in M.C.O.P.No.278 of 2010, dated 05.07.2013, on the file of the Motor Accidents Claims Tribunal / III Additional District Judge, Pattukkottai, is confirmed.

8. The appellant / Oriental Insurance Company Ltd., is directed to deposit the award amount along with interest at the rate of 7.5% p.a. from the date of petition till the date of deposit and cost within a period of four weeks from the date of receipt of a copy of this judgment, if not already deposited. On such deposit being made, the claimant / first respondent herein is permitted to withdraw the amount after deducting amount, if any, already received by him. No costs. Consequently, connected Miscellaneous Petition is closed. The Claimant is not entitled for interest for the default period if there is any default.

Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar(CS)

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<https://hcservices.ecourts.gov.in/hcservices/>



To

The Motor Accidents Claims Tribunal
III Additional District Judge,
Pattukkottai.

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COPY TO

The Section Officer, (2 COPIES)
VR Section,
Madurai Bench of Madras High Court,
Madurai.

C.M.A. (MD) No. 164 of 2015
14.02.2020

VB(18/05/2020) 3P 4C