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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.7.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

CIVIL MISCELLANEOUS APPEAL NO.1119 OF 2016
AND CMP.NO.8404 OF 2016

M/s.United India Insurance Co.
Ltd., Chander Plaza, 1st Floor, No.48,
Arcot Salai, Saligramam, Chennai-93

...Appellant/
2nd Respondent

Vs

1.M.Kannan

... 1st Respondent/
Petitioner

2.G.Sivaraman Krishnan

...2nd Respondent/
1st Respondent

APPEAL under Section 173 of the Motor Vehicles Act, 1988 against the fair and decretal order dated 02.6.2015 in MCOP.No.478 of 2013 on the file of the Motor Accidents Claims Tribunal (Third Additional District Court), Tiruvallur at Poonamalle.

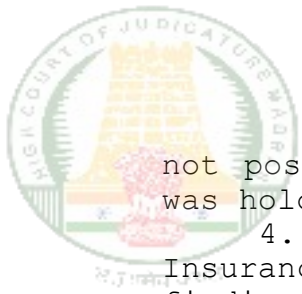
For Appellant : Mr.E.Rajadurai for Mr.N.Vijayaraghavan
For Respondent-2: served and no appearance
Mr.F.Terry Chella Raja for R1

JUDGMENT

I have heard the learned counsel appearing for the appellant.

2. This appeal has been filed by the appellant - Insurance Company challenging the award dated 02.6.2015 passed by the Motor Accidents Claims Tribunal (Third Additional District Court), Tiruvallur at Poonamalle in MCOP.No.478 of 2013.

3. The appellant - Insurance Company has challenged the impugned award only on the ground that the Tribunal has erroneously failed to grant pay and recovery rights to them despite the finding that the driver of the insured vehicle was



not possessing a valid driving licence for a two wheeler as he was holding a driving licence for a four wheeler alone.

4. The learned counsel appearing for the appellant - Insurance Company drew the attention of this Court to the finding of the Tribunal under the impugned award and in particular, referred to paragraph 12 of the impugned award wherein the Tribunal has given a categorical finding that the rider of the motor cycle was not possessing a driving licence for driving a two wheeler whereas he was possessing a driving licence only to drive a four wheeler.

5. The learned counsel for the appellant also drew the attention of this Court to the driving licence possessed by the driver of the motor cycle, which had been marked as Ex.R2 before the Tribunal and would submit that despite the categorical finding of the Tribunal that the rider of the motor vehicle did not possess a valid driving licence to drive a two wheeler, the Tribunal has not granted pay and recovery rights to the appellant - Insurance Company under the impugned award.

6. In this appeal, the notice was sent to the owner of the two wheeler (insured vehicle) and was duly served and his name is printed in the cause list today. Despite the same, he has not chosen to appear before this Court.

7. Admittedly, as seen from the evidence available on record, the rider of the motor vehicle (insured vehicle) was possessing only a driving licence for a four wheeler and not for a two wheeler. The Tribunal has also given a categorical finding to that effect. However, the Tribunal has erroneously failed to grant pay and recovery rights, which the appellant - Insurance Company is legally entitled to in view of the fact that the insured has committed a policy violation.

8. With regard to quantum of compensation awarded by the Tribunal to the claimant, the appellant - Insurance Company has not raised any serious dispute as seen from the grounds of appeal filed by them.

9. For the foregoing reasons, the above civil miscellaneous appeal is partly allowed by directing the appellant - Insurance Company to pay the compensation amount to the claimant - first respondent herein as determined by the Tribunal under the impugned award and thereafter recover the same from the second respondent herein in accordance with law. No costs. Consequently, the connected CMP is closed.

10. When the matter came up for admission, this Court directed the appellant - Insurance Company to deposit the entire award amount with interest to the credit of the claim petition.



The Tribunal is directed to transfer the balance award amount together with interest lying to the credit of the claim petition directly to the bank account of the first respondent herein through RTGS within two weeks from the date of receipt of a copy of this judgment.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

RS

To

The Third Additional District Judge,
The Motor Accidents Claims Tribunal ,
Tiruvallur at Poonamallee.

Copy To

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

+1cc to M/s.M.Malar, Advocate, S.R.No.33218

CMA.No.1119 of 2016&
CMP.No.8404 of 2016

SSD (CO)
PM/26/11/2021