



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.M.A.No.2200 of 2011  
and  
MP.No.1 of 2011

The New India Assurance Company Ltd.,  
Cuddalore N.T ... Appellant/2<sup>nd</sup> Respondent

Versus

1.Arikrishnan(died) ...1<sup>st</sup> Respondent/Petitioner  
2.Iyyappan  
(As per order of this Court dated  
28.04.2021, the death of the first  
respondent was recorded) ...2<sup>nd</sup> Respondent/  
1<sup>st</sup> Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the decree and judgment dated 05.10.2010 made in M.C.O.P.No.1244 of 2007 on the file of the Motor Accident Claims Tribunal (Additional Subordinate Judge-1), Cuddalore.

For Appellant : Mr.K.Vinoth  
for Mrs.Elveera Ravindran

For 2<sup>nd</sup> Respondent: No Appearance

#### J U D G M E N T

This appeal has been laid as against the decree and judgment dated 05.10.2010 made in M.C.O.P.No.1244 of 2007 on the file of the Motor Accident Claims Tribunal (Additional Subordinate Judge-1), Cuddalore, thereby awarded the compensation to the tune of Rs.1,80,000/-.

2. For the sake of convenience, the parties are referred to hereunder according to their litigative status before the Tribunal.



3. The learned counsel for the appellant / insurance company submitted that the first respondent was the rider of the two wheeler and on rash and negligent driving of the first respondent, the accident took place, due to which the claimant sustained injury and the Tribunal awarded compensation. He further submitted that the vehicle owned by the first respondent is insured with the second respondent and as such the Tribunal fixed liability on both the respondents jointly and severally to pay compensation. The Tribunal failed to see that the first respondent did not possess valid licence to drive the motorcycle. Ex.P5 was marked by the claimant and it revealed that the first respondent possessed driving licence only to drive light motor vehicle and not for motorcycle with gear. Therefore, it is violation of policy and as such he sought for order of pay and recovery.

4. Heard Mr.K.Vinoth, learned counsel appearing for the appellant.

5. On perusal of driving licence which was marked as Ex.P5 by the claimant revealed that the driving licence was issued to the first respondent to drive light motor vehicle. Therefore, there is a clear violation of the policy condition and the first respondent / second respondent herein is held to be liable to pay the entire compensation. Accordingly, the Civil Miscellaneous Appeal is allowed as follows:-

(i) The award amount of Rs.1,80,000/- passed by the Tribunal is hereby confirmed.

(ii) The award amount will carry the interest at the rate of 7.5% per annum from the date of the claim petition till the date of deposit.

(iii) The appellant / second respondent is directed to deposit the entire award amount, less the amount, if any, already deposited, along with accrued interest within a period of six weeks from the date of receipt of copy of this Judgment. The appellant / second respondent is at liberty to recover the above award amount from the second respondent herein.

(iv) On such deposit, the legal heirs of the deceased first respondent herein are permitted to withdraw the amount awarded by the Tribunal by filing proper application before the Tribunal.

(v) There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar(AD-II)

//True Copy//

Sub Assistant Registrar



lok

To

WEB COPY

1.The Additional Subordinate Judge-1,  
Motor Accident Claims Tribunal,  
Cuddalore

2.The Section Officer,  
V.R.Section,  
Madras High Court,  
Chennai.

+1cc to Mrs.Elveera Ravindran, Advocate, S.R.No.26045

C.M.A.No.2200 of 2011

RSI (CO)  
CB(26/10/2021)