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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2021

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THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA.No.652 of 2015

and

M.P.No.1 of 2015

M/s.United India Insurance Company Limited,
Andiappan Gramani Street,
Royapuram, Chennai - 600 013. ...Appellant/3rd Respondent

Vs.

1.Ibahim @ Syed Ibrahim ...1st Respondent/Petitioner

2.G.Ramesh ...2nd Respondent/1st Respondent

PRAYER: This Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against decree and the judgment dated 07.10.2014, passed in MCOP.No. 3772 of 2012, on the file of the Motor Accidents Tribunal (IV SCC), Chennai.

For Appellant : Mr.G.Udayasankar

For Respondents : No appearance

JUDGMENT

This Civil Miscellaneous Appeal has been preferred by the appellant/Insurance Company against the award passed by the Tribunal in MCOP.No.3772 of 2012.

2.The claimant/first respondent herein has filed a petition in M.C.O.P.No.3772 of 2012, for claiming compensation for the injuries sustained in the road transport accident.

3.Heard the learned counsel for the appellant. No appearance on behalf of the respondents.

4.The second respondent herein is the owner of the vehicle. Before the Tribunal, the Insurance Company has contended that the offender vehicle viz., Auto does not possess fitness certificate to carry goods on the date of the accident.

5.Before the Tribunal, during the course of Trial, on the side of the petitioner PW1, PW2, PW3 were examined and



marked Exs. P1 to P13 and on the side of the respondents, one U.Raghupathy assisted for RDO Office was examined as RW1 and Administrative Officer of the Insurance Company was examined as RW2 and marked Exs.R1 to R4

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6. Based upon the evidence adduced before the Trial Court, i.e., RW1, Ex.R1/Authorization letter of RW1 and Ex.R2/Particulars issued by RDO office, it is seen that on the date of the accident there is no fitness certificate available for the offender vehicle. Based upon the other evidence, the Tribunal has held that accident has taken place due to the rash and negligence driving of the driver of the offender vehicle and in the absence of any challenge to the finding, the factum of the accident, manner of the accident and the rash and negligence driving on the part of the driver of the second respondent's vehicle viz., G.Ramesh, is hereby confirmed.

7. In view of the plea raised in the counter statement filed by the appellant/Insurance Company, based upon the Judgment reported in 2010 ACJ 2046 - United India Insurance Company Limited Vs. Saravanan and another, the Tribunal has rightly come to the conclusion that the driving of the vehicle without fitness certificate is violation of the rules and since the victim is a third party, the Insurance Company was directed to pay award amount to the petitioner/claimant at the first instance and to recover the same from the owner of the vehicle.

8. After perusing the evidence and also the documentary evidence from Ex.P3/Discharge summary, Ex.P11/Disability Certificate issued by PW2/Dr.J.R.R.Thiagarajan and the various heads of compensation, this Court finds that the compensation awarded by the Tribunal is just and necessary. Accordingly, this Court does not find any error in pay and recovery issued by the Motor Accidents Claims Tribunal and it is perfectly legal and does not suffer from any irregularity or illegality.

9. In this view of the matter, this Civil Miscellaneous Appeal stands dismissed and the compensation awarded in MCOP.No.3772 of 2012, by the Motor Accidents Tribunal (IV SCC), Chennai, dated 07.10.2014 is hereby confirmed. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

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To

The Motor Accidents Tribunal (IV SCC), Chennai.

+1cc to Mr.G.Udayasankar, Advocate SR.No.9856

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and M.P.No.1 of 2015

CP (CO)
GMY (07/09/2021)