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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2021

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THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.1675 of 2020

and

C.M.P.No.12327 of 2020

(Through Video Conferencing)

National Insurance Company Ltd.,
Represented by its Manager,
Hero Vertical
101, 105, MBC House,
Cannought Place,
New Delhi - 110 001.

...Appellant/2nd Respondent

Vs.

1.Selvi

2.K.Babu

3.K.Mani

4.K.Priya
C.Muthu (Died)

5.M.Sabari

...Respondents/Petitioner 1to4

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award passed in M.A.C.T.O.P.No.706 of 2018, dated 24.03.2020, on the file of the Motor Vehicle Accidents Claims Tribunal, Principal District Court, Krishnagiri.

For Appellant : M/s.N.B.Sureka

For R1 to R5 : No appearance

J U D G M E N T

Though the notice has been served on the respondents, there is no representation on behalf of them. Since no adverse orders are proposed to be passed against them, this Civil Miscellaneous Appeal is taken up for hearing and final disposal.



2. The Insurance Company is the appellant in this Civil Miscellaneous Appeal. It is aggrieved by the impugned Judgment and Decree dated 24.03.2020 passed by the Motor Accident Claims Tribunal (District Court for Motor Accident Claims Cases, Krishnagiri), Krishnagiri in M.C.O.P.No.706 of 2018.

3. This Civil Miscellaneous Appeal has been filed on the ground that the Tribunal has failed to order pay and recover the amount of compensation from the owner of the insured motorcycle, namely the fifth respondent herein. It is submitted that as per the FIR, it was admitted that rider of the motorcycle did not possess a valid driving licence at the time of the accident and therefore, the Tribunal ought to have ordered to pay and recover the amount of compensation.

4. I have considered the arguments advanced by the learned counsel for the appellant Insurance Company. I have also perused the impugned Judgment and Decree passed by the Tribunal and the evidence on record.

5. On perusing the evidences and the depositions, it is noticed that RW1 RTO has deposed that the rider of the motorcycle was possessing a valid driving licence. Considering the same, I do not find any error in the impugned Judgment and Decree passed by the Tribunal. Therefore, the prayer of the appellant Insurance company to order pay and recovery cannot be entertained.

6. The appellant Insurance Company is therefore directed to deposit the compensation of Rs.13,60,000/- together with interest at 7.5% per annum from the date of claim petition till the date of deposit and costs as ordered by the Tribunal, less any amount already deposited, within a period of eight weeks from the date of receipt of a copy of this Judgment.

7. On such deposit, the first to fourth respondents are permitted to withdraw their share together with interest and costs in the same proportion awarded by the Tribunal, less any amount already withdrawn, by filing suitable application before the Tribunal.

8. Accordingly, this Civil Miscellaneous Appeal is dismissed. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar



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To

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1. The Judge,
The Motor Vehicle Accidents Claims Tribunal,
Principal District Court, Krishnagiri.
2. The Section Officer,
V.R.Section,
Madras High Court.

+1cc to M/s.N.B.Sureka, Advocate, S.R.No.24830

C.M.A.No.1675 of 2020
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NSK 16/11/2021