



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.04.2021

CORAM

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.167 of 2011

and

M.P(MD)No.1 of 2011

M/s.National Insurance Co., Ltd.,
Through its Branch Manager,
Sub Collector Office Road,
Opposite to Court,
Dindigul.

..Appellant / Respondent No.2

vs.

1.Thenmozhi

..1st Respondent / Petitioner

2.Rajesh Kannan

3.P.Kaliaperumal

..Respondent Nos.2 & 3/Respondents 1&2

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, to set aside the judgment and decree, dated 20.09.2010 passed in M.C.O.P.No.192 of 2009 on the file of the MACT/Chief Judicial Magistrate Court, Dindigul.

For Appellant : Ms.P.Malini

For R1 : Mr.A.Rahul

For R2 & R3 : No appearance

J U D G M E N T

The Insurance Company has come up with this appeal challenging the award passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Dindigul in M.C.O.P.No.192 of 2009.

2. The first respondent herein filed the claim petition seeking compensation of Rs.1,00,000/- for the injuries sustained by her in the Motor Vehicle Accident occurred on 13.11.2008. It is alleged that when she along with one Pitchaiammal were standing in front of Super Medical on Dindigul-Palani main road, a motorcycle, bearing Registration No.TN-57-F-7471, came in a high speed, hit against her. In the accident, she sustained fracture on her left leg and also injuries all over the body. Therefore, she is entitled for compensation.



3. The case of the appellant before the Tribunal was that the manner of accident narrated in the claim petition are false. The claim is highly excessive and out of all proportions. It is further stated that the driver, who had driven the motorcycle, had no driving licence at the time of accident. So, the appellant is not liable to pay any compensation to the claimant.

4. The claimant examined herself as P.W.1 and narrated the manner of the accident in her evidence. In support of the oral evidence, Ex.P1-First Information Report, Ex.P2-Motor Vehicle Inspector Report, Ex.P3 Wound Certificate, Ex.P4-Charge-sheet, Ex.P5-Disability Certificate, Ex.P6-X-ray, were marked. The appellant examined two witnesses and marked 5 documents to show that the driver of the vehicle did not have any valid driving licence.

5. The Tribunal after analysing the evidence, awarded a sum of Rs.58,000/- along with interest at the rate of 7.5% p.a. In this appeal, the quantum is not seriously opposed by the appellant.

6. With regard to liability of the Insurance Company, it is contended by the learned counsel for the appellant that when the Tribunal found that the driver did not have valid driving licence, no liability can be fixed on the Insurance Company.

7. Considering the quantum of compensation awarded by the Tribunal and the facts and circumstances of the case, this Court is not inclined to interfere with the findings of the Tribunal.

8. In the light of the above, I find no merit in the appeal and hence, the Civil Miscellaneous Appeal is dismissed. The appellant - Insurance Company is directed to deposit the entire award amount with accrued interest and costs as directed by the Tribunal, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the first respondent/claimant is permitted to withdraw the award amount by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

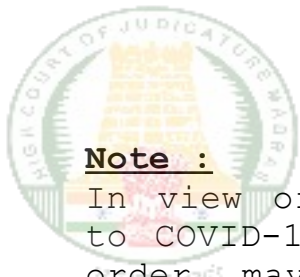
Sd/-

Assistant Registrar(T & P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Motor Accident Claims Tribunal,
Chief Judicial Magistrate Court, Dindigul.

COPY TO

The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.(2 COPIES)

+1 CC to M/s.P.MALINI, Advocate (SR-15931[F] dated 16/04/2021)

JUDGMENT MADE IN
C.M.A(MD) No.167 of 2011
09.04.2021

SRK(CO)
TR(28.04.2021) 3P 5C