

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE A.A. NAKKIRAN

C.M.A.(MD)No.1068 of 2009

Manager,
The Oriental Insurance Company Ltd.,
Gopal Rao Library Building,
1st Floor, Town Hall Road,
Kumbakonam

... Appellant/ 2nd Respondent

Vs.

1.Minor.S. Sangeetha
rep. by her natural guardian
and father Sasikumar

2.Nagappan

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award dated 31.12.2008 made in MCOP.No.258 of 2007 on the file of the Motor Accident Claims Tribunal, Sub Court, Karur.

For Appellant	: Mr.C. Karthik
For R1	: M/s. K. Hema Karthikeyan
For R2	: Dismissed

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JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant / Insurance Company against the Award, dated 31.12.2008 made in MCOP.No.258 of 2007 on the file of the Motor Accidents Claims Tribunal / Sub Court, Karur.

2.The appellant / Insurance Company is the 2nd respondent in M.C.O.P.No.258 of 2007. The 1st respondent / claimant filed a claim petition before the Motor Accident Claims Tribunal Sub Court, Karur, claiming a sum of Rs.3,00,000/- as compensation, for the injuries sustained by him in the accident that occurred on 28.02.2007.

3. The Tribunal, considering the pleadings, oral and documentary evidence, awarded a total sum of Rs.69,700/- as compensation.

4. Challenging the Award passed by the Tribunal, the appellant / Insurance Company has filed the present Civil Miscellaneous Appeal.

5. Heard the learned counsel appearing for the appellant and the

first respondent.

6. The main ground on which the present appeal is filed by the appellant / Insurance Company is that the rider of the motorcycle has no valid driving license on the date of accident and that the appellant has also proved the same by way of examining RW.1 to RW.3. But, the Tribunal has wrongly fixed the liability only against the Insurance Company.

7. Even though the appellant challenged the quantum of compensation awarded by the Tribunal, he restricted his relief to pay and recover the amount from the owner of the vehicle.

8. Considering the facts and circumstances of the case and also the submission made by the learned counsel appearing for the appellant, this Court is inclined to direct the appellant / Insurance Company to deposit Award passed by the Tribunal and recover the same from the owner of the vehicle / 2nd respondent herein.

9. Accordingly, this Civil Miscellaneous Appeal is disposed of. The appellant / Insurance Company is directed to deposit the entire award amount to the credit of MCOP.No.258 of 2007 on the file of the Motor Accident Claims Tribunal, Sub Court, Karur, within a period of six weeks from the date of receipt of a copy of this order, if not already deposited. On such deposit, the Tribunal is directed to deposit the same in any one of the Nationalized Banks till the first respondent / claimant is attained majority. The appellant / Insurance Company is permitted to recover the award amount from the owner of the vehicle. No costs.

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Index :Yes/No
Internet :Yes/No
trp

To

1. The Motor Accident Claims Tribunal, Sub Court, Karur.
2. The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

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A.A. NAKKIRAN, J.,

trp

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