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C.M.A.No.1401 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

C.M.A.No.1401 of 2021

and

C.M.P.No.7232 of 2021

IFFCO-TOKIO GENERAL INSURANCE COMPANY,

Iffco Bhavan, 4th Flor,

No.125, Habibullah Road,

T-Nagar, Chennai – 600 017.

... Appellant

Vs.

1.V.Soundararajan

2.P.Ashok Kumar

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and Decree dated 20.11.2020 passed in M.A.C.T.O.P.No.2301 of 2014 by V Small Causes Court Judge, Motor Accidents Claims Tribunal, Chennai.

For Appellant : Mr.R.Rathna Thara

For Respondents : Mr.R.Nalliappan [R1]

Mr.A.Bharath Kumar [R2]



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JUDGEMENT

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Challenging the award passed by the V Small Causes Court Judge, Motor Accidents Claims Tribunal, Chennai, in M.A.C.T.O.P.No.2301 of 2014 dated 20.11.2020, the insurance company has preferred the present appeal.

2. As per the claim petition, on 06.04.2014 at about 11.00 hours, when the claimant was riding the motorcycle bearing Regn.No.TN-11-X-4731, a motorcycle bearing Regn.No.TN-22-BX-0419 belonging to the first respondent and insured with the second respondent, driven by its driver in a rash and negligent manner, dashed against the claimant's motorcycle, as a result of which, the claimant sustained grievous injuries. Thereafter, he filed a claim petition before the Tribunal claiming a total compensation of a sum of Rs.7,95,000/-, which was restricted to Rs.7,00,000/- for the injuries sustained by him in the said accident in M.A.C.T.O.P.No.2301 of 2014.

3. Before the Tribunal, the claimant examined himself as P.W.1 and marked 7 documents viz., Ex.P.1 to Ex.P.7. On the side of the second



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respondent/insurance company, they have examined one witness viz., R.W.1 and marked 4 documents viz., Ex.R.1 to Ex.R.4. After adjudication, the Tribunal by its award dated 20.11.2020 awarded compensation in a sum of Rs.2,44,329/- and after deducting 10% towards contributory negligence, the Tribunal has awarded a sum of Rs.2,19,900/- and ordered for pay and recovery. Aggrieved by the same, the insurance company has preferred the present appeal.

4. The learned counsel appearing for the appellant/insurance company submitted that, the second respondent is the owner of the offending vehicle and at the time of accident, son of the second respondent, who is a minor, driven the offending vehicle without having a valid driving licence. However, without considering the said aspect, the Tribunal has ordered for pay and recovery by fixing the liability on the appellant/insurance company, which is wholly unsustainable and the same requires interference.

5. Per contra, the learned counsel appearing for the first respondent/claimant submitted that, the ground raised by the appellant is



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purely a dispute between the appellant and the second respondent and the first respondent/claimant being a third party, the appellant is liable to compensate the claimant. Considering the same, the Tribunal has passed award in favour of the first respondent/claimant by ordering pay and recovery, which is wholly sustainable and the same does not require any interference.

6. Heard the learned counsel appearing for the appellant, the learned counsel appearing on behalf of the first respondent and the learned counsel appearing on behalf of the second respondent and also perused the materials available on record.

7. The compensation awarded by the Tribunal under various heads were not assailed by the appellant/insurance company. Therefore, this Court confirms the compensation awarded by the Tribunal under various heads.

8. A perusal of the entire papers including the award passed by the Tribunal below would show that both the claimant and the rider of the



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offending vehicle driven their vehicles without possessing valid driving licence and in order to disprove the same, they have not filed their driving licence before the Tribunal. Therefore, the Tribunal has rightly arrived at a conclusion that the accident had happened due to the rash and negligent driving by the driver of the offending vehicle and fixed 10% contributory negligence on the claimant for not possessing valid driving licence at the time of accident and therefore, this Court is not inclined to interfere with the same.

9. Accordingly, the Civil Miscellaneous Appeal is dismissed and the judgment and decree passed by the V Small Causes Court Judge, Motor Accidents Claims Tribunal, Chennai in M.A.C.T.O.P.No.2301 of 2014 dated 20.11.2020 is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

21.12.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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M.DHANDAPANI, J.,

sp

To

1.The V Small Causes Court Judge, Motor Accidents Claims Tribunal,
Chennai.

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

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