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C.M.A.No.2056 of 2017

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.No.2056 of 2017

and

C.M.P.No.11049 of 2017

Divisional Manager,
United India Insurance Company Ltd.,
Divisional Office,
No.13A, Nethaji Road,
Cuddalore – 607 001.

... Appellant/2nd Respondent

Vs.

1.Minor Amaresan,
rep. by his father S.Ravichandran

... 1st Respondent/Petitioner

2.S.Sathiya

... 2nd Respondents/1st Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 14.06.2016 made in M.C.O.P.No.2632 of 2014 on the file of the Motor Accidents Claims Tribunal (Special Sub Court), Cuddalore.

For Appellant : Mr.D.Bhaskaran

For Respondents : No appearance



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JUDGEMENT

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Questioning the liability fixed by the Motor Accidents Claims Tribunal, Special Sub Court, Cuddalore in M.C.O.P.No.2632 of 2014 dated 14.06.2016, the appellant has preferred the present appeal.

2. On 20.03.2014 at about 19.20 hours, when the minor petitioner was riding a motorcycle bearing Reg.No.TN-68-H-1294 with a pillion rider, Harikesh from north to south at a moderate speed, keeping extreme left near Mahdakoil Street, Ponnerikarai, the first respondent's two wheeler bearing Reg.No.TN-31-AK-8696 proceeding in front, at a great speed, in a rash and negligent manner, suddenly slowed down, without giving any signal to the following vehicles, as a result of which, though the minor petitioner applied brake, the motorcycle went and dashed against the moped, thereby, the minor petitioner sustained fracture and multiple grievous injuries. Thereafter, the minor petitioner had filed a petition claiming a total compensation of a sum of Rs.10,00,000/- under various heads.

3. Before the Tribunal, the petitioner had examined two witnesses, viz., P.W.1 and P.W.2 and marked 14 documents viz., Ex.P.1 to Ex.P.14. No



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witnesses were examined nor any documents were marked on the side of the respondents. After adjudication, the Tribunal awarded a sum of Rs.56,000/- with an interest of 7.5% p.a. by fastening the liability as against the second respondent/insurance company and ordered for pay and recovery. Questioning the same, the insurance company had filed the present appeal.

4. The learned counsel appearing for the appellant submitted that the issue arises in this appeal is no longer res-integra and the Apex Court in a case reported in **2017 AIR SCW 3591** held that when the FIR is registered against the rider of the motorcycle, who does not possess valid driving licence and dashed against another vehicle and the FIR was registered against the claimant, the Tribunal cannot fasten the liability against the insurance company. Accordingly, he prays for allowing the appeal.

5. Heard the learned counsel appearing for the appellant. Though the names of the respondents are printed in the cause list, however, no one appeared on behalf of the respondents. Considering the pendency of the appeal, this Court is inclined to dispose of the appeal based on the available materials.



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6. The factum and manner of the accident is not in dispute. The main grievance espoused by the appellant is that the first respondent/claimant was a minor and was not possessed of a valid driving licence and, therefore, he is not entitled for any compensation at the hands of the insurance company. Though it is the claim of the claimant that the sudden slowing down of the vehicle at the front, which was proceeding in a fast manner resulted in the claimant hitting the rear of the vehicle and suffering injuries, however, it should not be lost sight of that if the vehicle in the front was going at a fast pace, without the claimant following the said vehicle at an equal pace, the sudden slowing down of the vehicle in front would in no way have any effect on the driving of the claimant, if he was really driving the vehicle in a safe and slow manner.

7. Be that as it may. It is the stand of the appellant that the claimant was not possessed of a valid driving licence and, therefore, not entitled to any compensation. The non-possession of valid driving licence by the claimant is not in dispute, more so, even according to the claimant, he was a minor and, therefore, he could not have been issued with a driving licence. A person, who



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is a minor and not possessed of a valid driving licence is not permitted to drive a vehicle and act of driving a vehicle without a valid driving licence is against the law and in any untoward incident happens thereupon, the insurance company cannot be fastened with any liability to indemnify the said act. The above ratio has been laid down by the Apex Court in the case reported in **2017 AIR SCW 3591** and this Court is in respectful agreement with the same. In view of the above finding, this Court is of the considered view that the compensation granted by the Tribunal is wholly erroneous and the same deserves to be set aside.

8. Accordingly, the Civil Miscellaneous Appeal is allowed and the judgment and decree dated 14.06.2016 made in M.C.O.P.No.2632 of 2014 on the file of the Motor Accidents Claims Tribunal, (Special Sub Court) Cuddalore is set aside. Deposit, if any made by the appellant, the appellant is at liberty to withdraw the same by filing appropriate application. No costs. Consequently, the connected miscellaneous petition is closed.

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

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To

- 1.The Motor Accident Claims Tribunal, Special Sub Court, Cuddalore.
- 2.The Section Officer, V.R.Section, High Court, Madras.

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