



C.M.A.(MD).No.378 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISHKUMAR

C.M.A.(MD).No.378 of 2023

and

C.M.P.(MD).No.4551 of 2023

The Branch Manager,
National Insurance Company Limited,
Kumbakonam

... Appellant

Vs.

1.Siva Alias Manimaran
2.Sivakumar

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 22.06.2022 passed in M.C.O.P.No.146 of 2015 on the file of the Motor Accident Claims Tribunal, Additional Subordinate Judge, Kumbakonam.

For Appellant	:	Mr.V.Sakthivel
For R1	:	Mr.G.Ganesh Kumar
For R2	:	No appearance



C.M.A.(MD).No.378 of 2023

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J U D G M E N T

This appeal has been filed by the Insurance Company mainly on the ground that pay and recovery has not been ordered.

2. On 22.04.2015, at about 12.00 noon, while the petitioner was travelling in a two wheeler, the first respondent two wheeler came in an opposite direction and dashed against the two wheeler in which the petitioner was travelling. As a result, he sustained grievous injuries. It is the contention of the Insurance Company that the rider of the offending vehicle did not possess valid driving licence. The Tribunal, while assessing the compensation, directed the Insurance Company to pay the award amount of Rs.1,80,474/-.

3. The contention of the learned counsel appearing for the appellant/Insurance Company before this Court is that despite proved that the second respondent did not possess valid driving licence, the Tribunal has directed the appellant/Insurance Company to pay the entire award amount. He has also pointed out that despite the notices served to produce the document viz., the driving licence, the same was not



C.M.A.(MD).No.378 of 2023

produced. Besides, additional document was filed by the Motor Vehicle Inspector, which clearly show that for non-possessing of the driving licence, the second respondent has paid the fine on 06.05.2015, before the learned Judicial Magistrate, Kumbakonam.

4. Despite notice served and the name of the second respondent also printed in the cause list, none appeared for the second respondent.

5. Considering the aspect, when the second respondent did not have a valid driving licence, this Court is of the view that at the most the award passed by the Tribunal can be satisfied with the direction to the Insurance Company to pay the award amount and recover the same from the second respondent. Accordingly, the pay and recovery is ordered.

6. In the result, the Civil Miscellaneous Appeal is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

27.06.2023

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C.M.A.(MD).No.378 of 2023

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To

- 1.The Motor Accident Claims Tribunal,
Additional Subordinate Judge,
Kumbakonam.
- 2.The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.M.A.(MD).No.378 of 2023

N.SATHISHKUMAR,J.

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C.M.A.(MD)No.378 of 2023

27.06.2023