CMA. No.2676 of 2012

M.DHANDAPANI, J.

The matter is listed today under the caption “for being mentioned”.

2. It is brought to the notice of this Court by the Registry that though notice has been served on the respondent and no one appeared on his behalf. However, in para No.6 of the order, it was mentioned that this Court has carefully considered the submissions made on either side. The said para No.6 needs clarification regarding service of the respondent. Therefore, this Court is inclined to modify the same as follows:

" 6. This Court has carefully considered the submissions made by the learned counsel for the appellant and perused the materials available on record."

3. Except the above modification, remaining portion of the judgment dated 17.12.2024 shall stand unaltered.

04.02.2026

rli

Note: Registry is directed to issue a fresh order copy after making necessary corrections.

M.DHANDAPANI,J.

Rli

CMA. No.2676 of 2012

04.02.2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2024

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

CMA.No.2676 of 2012

The Oriental Insurance Co. Ltd.,
Siva Complex, 2nd Floor, 22 C,
Sarada College Main Road,
Salem, … Appellant

-vs-

1. Loganathan

2. Balamurugan .. Respondents

PRAYER: Civl Miscellaneous Petition has been filed under Section 173 of the Motor Vehicle Act, against the judgment and decree made in MACT OP. No.636 of 2009 on the file of the Motor Accidents Claims Tribunal Chief Judicial Magistrate, Dharmapuri dated 30.11.2011.

For Appellant : Mr.M.Krishnamoorthy

For Respondent : NRN

JUDGMENT

The appellant Insurance company has filed the appeal seeking quantum of compensation in judgment and decree made in MACT OP. No.636 of 2009 on the file of the Motor Accidents Claims Tribunal Chief Judicial Magistrate, Dharmapuri dated 30.11.2011.

2. The case of the claimant is that on 24.01.2009, when he was riding his two wheeler bearing Reg, No. TN 29 AA 0553, at that time, the second respondent was driving auto bearing Reg. No.TN 29 F 9244, in a rash and negligent manner, on the same direction and dashed against the two wheeler. The claimant sustained grievous injuries. In view of the same, the claimant underwent treatment as an inpatient for nearly 10 days and he also underwent a couple of surgeries. The disability was assessed by the medical board at 20%. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for payment of compensation.

3. The Tribunal, considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the offending vehicle and awarded a sum of Rs.1,19,820/-. Having rendered such a finding, the Tribunal found that the driver of the auto did not possess a valid driving license.

4. Questioning the quantum of compensation and liability fixed by the Tribunal, the appellant insurance company has filed the present appeal.

5. Heard the learned counsel for appellant insurance company. Though notice has been served on the first respondent, no one appeared on his behalf.

6. This Court has carefully considered the submissions made on either side and perused the materials available on record.

7. The fact that the driver of the maxi cab had not valid license at that time of the accident is well established through evidence. No doubt the owner of the Maxi was at fault for having allowed a person who did not possess valid driving license to operate the vehicle. At the same time, one should not loose right of the fact that the maxi cab was having valid insurance cover during the relevant period. The breach of policy condition is a matter to be sorted out between the insurer and the insured. The claimant should not be allowed to suffer in any manner because of the breach of policy conditions by the insurer. The claimant has not filed any cross appeal seeking enhancement of compensation. Therefore, this Court has no hesitation to confirm the quantum of compensation awarded by the Tribunal. The liability fastened on the appellant is also perfectly in order. The appellant is always at liberty to take action as per the law against the insurer if they are so aggrieved.

8. In the result, the Civil Miscellaneous Appeal is dismissed. No costs.

17.12.2024

Rli

To

The Motor Accidents Claims Tribunal

Chief Judicial Magistrate, Dharmapuri

M.DHANDAPANI.,J

rli

CMA.No.2676 of 2012

17.12.2024