



C.R.P(MD)No.1248 of 2008

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.07.2024**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.1248 of 2008

National Insurance Company Limited,
Represented by its Branch Manager. ... Petitioner/2nd Respondent

Vs.

1.Lazer ... Respondent/Petitioner

2.K.Ramesh ... Respondent/1st Respondent

Prayer: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the judgment and decree, dated 03.01.2008 and made in M.C.O.P.No.148 of 2005 on the file of the Motor Accident Claims Tribunal, Additional District Judge / Fast Track Court-1, Tirunelveli.

For Petitioner : Mr.J.S.Murali

For Respondents : No Appearance



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ORDER

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The present revision petition has been filed by the insurance company challenging the award passed in M.C.O.P.No.148 of 2005 on the file of the Motor Accident Claims Tribunal, Additional District Court / Fast Track Court - I, Tirunelveli primarily challenging the liability and quantum.

2. The injured claimant had filed the said claim petition contending that he along with others had travelled in a Tempo on 24.08.2003 along with vegetables from Reddiyarpuram to Vadaseri Santhai. According to the claimant, the driver of the 1st respondent had driven the vehicle in a rash and negligent manner and the van got capsized. The petitioner has further contended that he had sustained grievous injuries and prayed for a compensation of Rs.2,00,000/-.

3. The 2nd respondent insurance company has filed a counter contending that the injured claimant has travelled as a gratuitous passenger in a goods vehicle and therefore, he is not entitled to receive any compensation from the insurance company. The insurance company



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has further contended that the driver of the Tempo van did not have a valid driving license at the relevant point of time. The insurance company has also questioned the quantum of compensation as prayed for in the claim petition.

4. The tribunal after considering the oral and documentary evidence, has arrived at a finding that the accident has taken place only due to the rash and negligent driving on the part of the driver of the 1st respondent. The insurance company has examined the officials from the Regional Transport department and in his evidence, he has stated that the driver of the Tempo van was not having a valid driving license on the date of the accident. The owner of the vehicle, namely the 1st respondent had examined himself as R.W.3. During his deposition, he has contended that his driver was having a valid driving license on the date of the accident. The driving license were marked as Exhibits R.1, R.7 and R.8. The tribunal has relied upon Exhibit R.7 driving license and has arrived at a finding that the driver was having valid driving license at the relevant point of time. The tribunal has proceeded to award a sum of Rs. 7,358/- as compensation. Challenging the same, the present appeal has been filed by the insurance company.



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5. According to the learned counsel appearing for the insurance company, since the injured claimant has travelled as a gratuitous passenger in goods vehicle, he is not covered by the policy. He has further contended that the driving license was not valid on the date of the accident. Hence, he prayed for setting aside the award.

6. A perusal of the award indicates that the tribunal has arrived at a specific finding that the injured claimant has travelled along with vegetables in the goods vehicle in order to reach Vadasery market. This finding is supported by the evidence of P.W.1 and P.W.2. Therefore, this Court is of the considered opinion that there is no reason to disturb the said finding of the tribunal. As far as the issue of driving license is concerned, Exhibit R.7 has been marked on the side of the owner of the vehicle which would clearly indicate that the driver of the vehicle had a valid driving license along with batge on the date of accident. The quantum of the award is Rs.7,358/-. Therefore, this Court does not find any reason to interfere in the quantum of the award. There are no merits in the revision.



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WEB COPY 7. This Civil Revision Petition stands dismissed. No costs.

31.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The Motor Accident Claims Tribunal,
Additional District Judge / Fast Track Court-1,
Tirunelveli.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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Judgment made in
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