



C.M.A.(MD) Nos.693 & 694 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) Nos.693 & 694 of 2013

and

M.P.Nos.1,1 of 2013

In C.M.A.(MD)No.693 of 2013

The National Insurance Co. Ltd.,
Through its Branch Manager.

... Appellant

Vs.

1.P.Murugesan,
2.T.Rajendran.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988, to set aside the award dated 27.07.2010 passed in M.C.O.P.No.213 of 2009 on the file of the Additional Sub Court/MACT, Tirunelveli.

For Appellant : Mr.P.Malini

For Respondents : No appearance

In C.M.A.(MD)No.694 of 2013

The National Insurance Co. Ltd.,
Through its Branch Manager.

... Appellant

Vs.

1.N.Veerapahu,



C.M.A.(MD) Nos.693 & 694 of 2013

2.T.Rajendran.

... Respondents

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Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988, to set aside the award dated 27.07.2010 passed in M.C.O.P.No.303 of 2009 on the file of the Additional Sub Court/MACT, Tirunelveli.

For Appellant : Mr.P.Malini

For Respondents : No appearance

J U D G M E N T

The instant appeals have been preferred by the Insurance Company challenging the direction to pay and recover the compensation from the owner and also aggrieved by the fact that the interest at the rate of 9% p.a. was ordered to be paid for the compensation amount.

2. Though notice was served on the respondents in both appeals, none has entered appearance.

3. The manner of the accident and the compensation amount awarded by the Tribunal are not in dispute.



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4. The points for consideration are

'a. Whether the Tribunal was right in directing the appellant to pay and recover the compensation amount since the rider of the insured vehicle did not have valid licence?

b. Whether the Tribunal was right in awarding 9% interest for the compensation amount?'

5. As regards the first question, the appellant had established before the Tribunal that the rider of the insured vehicle did not have valid licence. In view of the violation of the terms of contract of the insurance, it is now well settled that the insurance company can be directed to pay the compensation and thereafter, recover the same from the owner of the insured vehicle. Therefore, the said point is answered accordingly.

6. As regards the interest, this Court is of the view that the interest at 9% p.a., awarded by the Tribunal is on the higher side and it would be just and reasonable to direct the appellant to pay the interest at the rate of 7.5% p.a., the prevailing rate then for the compensation amount awarded. Hence, the appellant is directed to deposit the compensation amount of Rs.1,26,000/- and Rs.10,000/- with interest at the rate of 7.5% p.a. to the



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first respondents in both the appeals in C.M.A.(MD)Nos.693 & 694 of 2013, respectively.

7. The learned counsel for the appellant submitted that they have already deposited the entire amount. However, if the appellant has not deposited the amount, they shall do it within four (4) weeks from the date of receipt of a copy of this order.

8. The first respondents in both appeals are permitted to withdraw the aforesaid amount, together with proportionate interest at 7.5% p.a. and costs, less the amount already withdrawn, if any, by filing an appropriate application before the Tribunal. The appellant shall be at liberty to withdraw the excess amount if any deposited by them.

9. In the result, these Civil Miscellaneous Appeals are partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

29.08.2024

Index: Yes/ No
NCC: Yes / No
Speaking Order / Non-Speaking Order
apd



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To:

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1.Additional Sub Judge/MACT, Tirunelveli.

2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

apd

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