



C.M.A(MD)No.712 of 2013

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.712 of 2013

and

M.P.(MD)No.2 of 2013

The Branch Manager,
National Insurance Company Limited,
175-A, Great Cotton Road,
Tuticorin – 628 002.

... Appellant

Vs.

1.K.Moorthy
2.Amirthamari

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act 1988, against the fair and decretal, dated 21.07.2007, made in M.C.O.P.No.264 of 2005, on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Tirunelveli.

For Appellant : Mr.Srinivasa Raghavan
For R1 : Mr.V.Sasikumar

JUDGMENT

The Civil Miscellaneous Appeal is filed by the Insurance Company.

2.It is a case of injury. The Tribunal has fixed the liability on the owner of the vehicle, since the Driver was not having driving license to drive the heavy



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vehicle and was not in possession of badge. It is a settled proposition of law if a vehicle is below 7500 Kg, driving license for light vehicle itself is sufficient for driving the heavy vehicle and badge is not necessary. But at the time of filing the present CMA the said proposition was not settled and it was settled subsequently.

3. Hence, this Court is not inclined to interfere in the order of the Tribunal. This Court is of the considered opinion that the Insurance Company is liable to pay the compensation and the owner of the vehicle is not liable to pay the compensation. Hence, the portion of the order in which pay and recovery was granted is set aside.

4.The appellant Insurance Company is directed to deposit Rs.1,07,105/- (Rupees One Lakh Seven Thousand One Hundred and Five only) with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same with accrued interests and costs, less the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal.



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5. With the above said observations, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2024

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

Tmg

To

1. Motor Accident Claims Tribunal /
Chief Judicial Magistrate, Tirunelveli.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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