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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.180 of 2024

and

C.M.P(MD)No.2204 of 2024

The Regional Manager,
United India Insurance Company Ltd.,
No.60, Sunrise Tower,
2nd Floor, Kamarajar Road,
Madurai – 625 009.

... Appellant

Vs.

1.M.Pitchai

2.M.Anand

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, praying to set aside the judgment and decree dated 25.10.2023 passed in M.C.O.P.No.37 of 2020, on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Theni.

For Appellant : Mr.I.Robert Chandra Kumar

For Respondent No.1 : No appearance



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JUDGEMENT

This Civil Miscellaneous Appeal is filed to set aside the Judgment and Decree dated 25.10.2023 passed in M.C.O.P.No.37 of 2020, on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Theni.

2. The 1st respondent herein is the claimant. Though the name of the claimant is printed in the cause list, he neither appeared through Counsel nor in person. The 2nd respondent, who is owner of the vehicle remained exparte before the Tribunal.

3. It is a case of injury. The contention of the insurance company is that the driver of the two-wheeler was not possessing valid driving license. To prove the said contention, the insurance company has examined the official from the RTO Office who had deposed before the Tribunal that there is no record to show that the driver was having any valid driving license. In such circumstances, the Tribunal ought to have granted Pay and Recovery, but the Tribunal has directed the insurance company to pay the same. This Court is of the considered opinion that whenever there is no driving license, then the Courts ought to order for Pay and Recovery.



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4. Accordingly, this Civil Miscellaneous Appeal is partly allowed and this Court is directing the Insurance Company to Pay and Recovery from the owner of the vehicle. The other portion of the award passed by the Tribunal is hereby confirmed. No Costs. Consequently, connected miscellaneous petition is closed.

18.03.2024

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

To

1. The Motor Accident Claims Tribunal (Chief Judicial Magistrate),
Theni.

2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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**Order made in
C.M.A(MD)No.180 of 2024**

18.03.2024