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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.06.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No. 828 of 2014

and

M.P.(MD)No. 4 of 2014

United India Insurance Company Limited,
Tenkasi.

... Appellant

Vs.

1. Mohamed Rowthar

2. Swamynathan (Owner cum Driver)

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the Order and Decree dated 05.02.2013 made in M.C.O.P.No.258 of 2011 on the file of the Motor Accident Claims Tribunal/Principal Subordinate Court, Tenkasi and allow the Appeal.

For Appellant : M/s.K.Murugesan

For 1st Respondent : M/s.Jeyakumaran

For 2nd Respondent : No appearance

JUDGEMENT

The Insurance Company has preferred this Appeal against the Order and Decree, dated 05.02.2013 passed in M.C.O.P.No.258 of 2011 on the



file of the Motor Accident Claims Tribunal/Principal Subordinate Court,
Tenkasi.

2. It is a case of injury. The Tribunal has granted a sum of Rs.80,000/- as compensation. The contention of the Insurance Company is that at the time of accident, the driver was not having valid driving license.

3. During evidence, the Regional Transport Officer has deposed in his evidence that they cannot state whether the driver is having valid driving license. It is seen that the RTO had not completely denied the driver is not having license, hence the benefit of doubt to the claimant. Even if license is not there, then the Courts have consistently directed to pay and recover from the owner.

4. Therefore this Court is of the considered opinion that the Tribunal has rightly granted compensation. However, the same shall be paid by the Insurance Company and the same shall be recovered from the owner.

5. Accordingly, the award of compensation passed by the Tribunal is hereby modified. The Insurance Company is directed to deposit a sum of Rs.



80,000/- as compensation, within a period of 8 weeks from the date of receipt of a copy of this Judgment, less the amount if already deposited. After depositing the amount, the same shall be recovered from the owner of the vehicle/2nd respondent herein. On deposit being made, the claimant is permitted to withdraw the same.

6. With these observations, this Civil Miscellaneous Appeal is partly allowed. No Costs. Consequently, connected miscellaneous petition is closed.

19.06.2024

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

To

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



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S.SRIMATHY, J.

KSA

**Judgment made in
C.M.A(MD)No.828 of 2014**

19.06.2024