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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : **09.09.2024**

CORAM :

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A(MD)No. 995 of 2018

The Oriental Insurance Company Ltd.,
Rep. By its Branch Manager,
Branch Office,
PLA Building, 1st Floor,
Post Box No.172, 12A,
Kovai Road, Karur. ... Appellant/Respondent No.2

Vs.

1.Periyasamy ...1st respondent/Petitioner

2.Ramesh ...2nd Respondent/Respondent No.1

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 30.01.2009 passed in M.C.O.P.No.309 of 2007on the file of the Motor Accident Claims Tribunal, Sub Court, Karur.

For Appellant : Mr.A.K.Baskarapandian

For R1 : Mr.V.Balaji

For R2 : No appearance

JUDGMENT

The Insurance Company, being aggrieved by the finding on liability, has filed the instant appeal.

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2. The 1st respondent filed a claim petition stating that while he was travelling in a omnivan insured with the appellant, the driver of the omnivan drove it in a rash and negligent manner and dashed against the wall of a bridge, as a result of which, the omnivan capsized and he sustained grievous injuries.

3. The owner of the van remained ex parte before the Tribunal.

4. The appellant filed a counter stating that the averments in the claim petition are false and, in any case, the compensation claimed was excessive.

5. The 1st respondent examined himself as P.W.1 and the doctor as P.W.2 and marked Ex.P.1 to Ex.P.12. The appellant examined R.W.1 and marked Ex.R.1.

6. The Tribunal, after considering the oral and documentary evidence, held that the accident was proved and the appellant, being the insurer of the vehicle involved in the accident, was liable to pay compensation to the tune of Rs.2,04,800/-.

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7. The learned counsel for the appellant submitted that the policy involved is a 'act-only' policy, and therefore, there is no coverage for the occupants, and hence they are not liable to pay compensation and that the total compensation awarded is excessive.

8. The learned counsel for the 1st respondent, per contra, submitted that Ex.R.1, the policy, would show that besides the personal accident coverage for the owner, an additional premium was also paid for employees in terms of IMT.29, and hence, the appellant is liable to pay compensation.

9. This Court has given its anxious consideration to the submissions made on either side and perused the materials available on record carefully.

10. The points for consideration in the instant appeal are as follows:

a) Whether the finding of the Tribunal on liability is justified; and

b) Whether the compensation awarded by the Tribunal is just and reasonable.

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11. As regards the 1st point, it is seen that the appellant had not raised this issue either in the counter or in the submissions before the Tribunal. That apart, Ex.R.1, the policy document, would show that the owner of the insured vehicle had paid a premium for employees in terms of IMT.29 and hence, the appellant would be liable to pay compensation, since the 1st respondent has established that he was employed under the Insured. Therefore, this Court is of the view that the finding of the Tribunal holding the appellant liable to pay compensation is justified and no interference is called for. The 1st point is answered accordingly.

12. As regards the quantum of compensation, it is seen that except stating that the amount awarded by the Tribunal is excessive, no infirmity has been specifically pointed out in the award of the Tribunal. A perusal of the award shows that the 1st respondent had spent Rs.1,27,316/- as per Ex.P.8, medical bills. He had suffered 30% disability. Considering the above facts, the award of the Tribunal granting Rs.2,04,800/- as compensation to the 1st respondent cannot be faulted.

13. In the result, the appeal is dismissed. No costs.

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14. The appellant shall deposit the compensation amount with accrued interest within a period of four weeks from the date of receipt of a copy of this judgment, less the amount already deposited. On such deposit, the 1st respondent/claimant is permitted to withdraw the same by filing a suitable application before the Tribunal.

09.09.2024

Index : Yes / No
Neutral Citation : Yes / No
CM

To
1.Motor Accident Claims Tribunal, Sub Court, Karur.

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

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SUNDER MOHAN, J.

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Judgment made in
C.M.A(MD)No. 995 of 2018

09.09.2024