
(2015) 02 MAD CK 0025

In the Madras High Court

Case No : C.M.A(MD)No.236 of 2008 and Connected Miscellaneous Petitions

National Insurance Company

APPELLANT

Vs

Therasammal

RESPONDENT

Date of Decision : 02-02-2015

Acts Referred:

Citation : (2016) 1 TNMAC 119

Hon'ble Judges : Mr. D. Hariparanthaman, J.

Bench : Single Bench

Advocate : Mr. S. Srinivasa Raghavan, Advocate, for the Appellant; Mr. N. Mohamed Asif, Advocate, for the Respondent No. 1

Final Decision : Disposed Off

Judgement

Mr. D. Hariparanthaman, J.—The only issue argued in this appeal is that the Tribunal committed error in not directing the Insurance Company to pay the amount of compensation and directing to recover the same from the owner. Such order should have been passed by the Tribunal, since the Tribunal came to the conclusion that the person, who rode the two wheeler did not posses valid licence to ride the two wheeler.

2. It is well settled that the Apex Court and this Court in a catena of the following decisions, have consistently taken a view that the insurer shall pay the compensation and thereafter, they shall recover the amount from the vehicle owner, whenever the compensation was ordered on the ground that the driver did not posses valid license. The decisions are as follows:

(i) 2011(1) TN MAC 641 (SC) - Jawahar Singh v. Bala Jain

(ii) (2013) 7 Supreme Court Cases 62 - S.Iyyapan v. United India Insurance Co. Ltd.

(iii) 2010(2) TN MAC 388 (DB) - United India Insurance Company Limited v. V.Vijayakumar

(iv) 2010(2) TN MAC 542 (DB) - Bajaj Allianz General Insurance Company Ltd. v. P.Manimozhi

(v) 2009(2) TN MAC 103 (DB) United India Insurance Co. Ltd. v. S.Saravanan & another (DB)

3. In view of the categorical pronouncement of this Court and the Apex Court as referred to above, the appeal is disposed of by modifying the order of the Tribunal by directing the appellant to pay compensation to the claimant and thereafter recover the same from the insured. The claimant is permitted to withdraw the entire amount deposited by the appellant pursuant to the order dated 16.02.2008 of the court. Consequently, connected Miscellaneous Petitions are closed. No costs.