

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. NO.2467 OF 2015
& M.P.NO.1 OF 2015

The Branch Manager,
United India Insurance Co. Ltd.,
No.123-A, No.2 Road,
Mayiladuthurai - 609 001. ..Appellant/2nd Respondent

Versus

1.S.Shanthi ..1st Respondent/Petitioner
2.V.Elangovan ..2nd Respondent/Respondent-No.1

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree dated 15.07.2014 made in M.C.O.P.No.277 of 2013 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Perambalur.

For Appellant : Mr.S.Arun Kumar

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred against the impugned judgment and decree passed in M.C.O.P.No.277 of 2013 dated 15.07.2014, by which, as against the original compensation of Rs.50,000/- claimed by the victim for the injuries suffered, the Tribunal has awarded a sum of Rs.15,000/-, on the basis of the evidence adduced by the claimant that there were sufficient injuries for which the claimant should be awarded with the above said amount. This has been questioned by the United India Insurance Company on the ground of liability.

2.Learned counsel for the appellant would submit that the vehicle involved was insured but the conditions mentioned under Section 66 of the Motor Vehicles Act, 1988 is that every owner of the vehicle shall use the vehicle after obtaining fitness certificate. In the present case, the vehicle involved in the accident has not been insured with the fitness certificate. Therefore, there is a clear violation of the conditions of the insurance coverage still. Adding further the learned counsel submitted that in any event, since the Tribunal has not applied

the principles towards pay and recovery, in which, the Insurance Company would claim from the owner of the vehicle has wrongly proceeded to award a sum of Rs.15,000/-. Therefore, the impugned judgment and decree are liable to be set aside.

3.This Court, considering the peculiar facts of the case that the amount awarded by the Tribunal being so little, namely, only Rs.15,000/-, has no hesitation giving liberty to the Insurance Company to proceed against the owner applying the principles of pay and recovery to dismiss the Civil Miscellaneous Appeal. Hence, the Civil Miscellaneous Appeal fails and is dismissed. However, there is no order as to costs. Consequently, connected M.P.No.1 of 2015 is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sri

To

The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate Court, Perambalur.

+ 1 cc to Mr.S. Arunkumar, Advocate Sr.61025

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