

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.09.2015

CORAM

THE HONOURABLE MS. JUSTICE K.B.K.VASUKI

C.M.A.No.2555 of 2003

M/S.United India Insurance Company Limited
Rep. by Branch Manager, Tirunelveli.

.. Appellant/2nd
respondent

Vs.

1.Thirunagavalli
2.Subbaiyan
3.Mariappan
4.Mohan

.. 1 to 4
respondents/Petitioners

5.Senthi Arumugam
respondent
(Exparte in the lower Court)

.. 5th Respondent/1st

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act-1988 against the judgment and decree dated 29.10.2001 made in M.C.O.P.No.271 of 2000 on the file of the Motor Accident Claims Tribunal (Principal Sub-Court) at Nagapattinam.

For Appellant : Mr.D.Baskaran

For R1 to R4 : Mr.Jemmy Vasanth

JUDGMENT

For the sake of convenience, the parties are referred to as per their rank before the Tribunal.

2.Heard the learned counsel for the appellant and the learned counsel for the respondents 1 to 4 herein and perused the records.

3.The second respondent-insurance company before the Tribunal is the appellate herein. The appeal is filed not only against the award of compensation to the legal heirs of the fatal accident victim, but also against the liability fixed on the insurance company to indemnify the insured. The appellant-insurer has denied his liability mainly on the ground that there is no insurance coverage for the offending vehicle on the date of accident. The insurer has not adduced any satisfactory evidence to show that no such insurance policy was issued for the offending vehicle. Though the claimants have in column-16 of the claim petition furnished the particulars regarding the branch at which the insurance is taken and no steps at all was taken on the part of the insurer to verify from the branch concerned as to whether any insurance policy was on force on the date of the accident. On their failure to do so, they cannot be permitted to deny the insurance coverage. As there is no serious argument advanced against the correctness of quantum of compensation awarded, this Court finds no reason to interfere with the award of compensation on any other ground.

4.In the result, this Civil Miscellaneous Appeal is dismissed with liberty given to the claimants to withdraw the award amount deposited before the Tribunal in terms of the award by filing separate cheque petitions. No costs. Consequently, connected Miscellaneous Petition is closed.

-Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

kj

To

1.The Motor Accident Claims Tribunal
(Principal Sub-Court) at Nagapattinam.

2.The Record Keeper, V.R.Section,
High Court, Chennai.

+1 cc to Mr.D.Bhaskaran,Advocate(sr.48356)

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BVR(co)
cp 19/10/2015