



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2016

Coram:

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

C.M.A (MD) No.461 of 2013
and M.P (MD) No.1 of 2013

The Branch Manager,
The United India Insurance Company Limited,
No.552, Malankara Building,
V.J.T Hall Road, Palayam,
Trivandrum.

... Appellant/Respondent No.2

-Vs-

1.L.Mary Litte

... Respondent No.1/Petitioner

2.V.John F.Edison

... Respondent No.2/Respondent No.1

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 06.09.2007 made in M.C.O.P.No.138 of 2005 passed by the Motor Accident Claims Tribunal cum Chief Judicial Magistrate, Tirunelveli.

For Appellant : Mr.C.Jawahar Ravindran
For RR1 & 2 : No Appearance

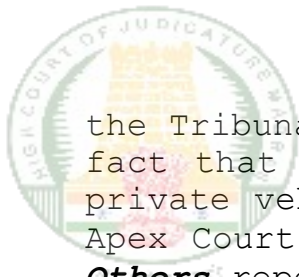
JUDGMENT

This Civil Miscellaneous Appeal is preferred against the Judgment and Decree, dated 06.09.2007 made in M.C.O.P.No.138 of 2005 passed by the Motor Accident Claims Tribunal cum Chief Judicial Magistrate, Tirunelveli.

2.It is a case of an injury caused in the accident, which took place on 04.04.2005 at about 18.30 hours near Oosikattu Sudalai Kovil, Kalanthapanai. The injured victim filed an application seeking compensation before the Motor Accident Claims Tribunal cum Chief Judicial Magistrate, Tirunelveli and the Tribunal, considering the facts and circumstances of the case, awarded a sum of Rs.20,850/- as total compensation. Challenging the same, the appellant/United India Insurance Company has preferred this appeal mainly on the ground that the occupants of the private vehicle is not covered under the policy, since it is an Act Policy.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The policy document was marked in the list of documents and



the Tribunal also found that it is only a Act policy. Inspite of the fact that it is only a Act policy, not covering the occupant of a private vehicle, the Tribunal relying on the Judgment passed by the Apex Court in ***Oriental Insurance Company Limited Vs. Brij Mohan and Others*** reported in **2007 (3) T.A.C 20 (SC)** granted compensation.

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4.In fact Section 147 of the Motor Vehicles Act is clear in this regard that a person, who are not covered under the Insurance company, cannot claim compensation from the Insurance Company and accordingly, the finding of the Tribunal that the occupants of a private vehicle even under the Act only policy can make a claim cannot be accepted and is in violation of the provisions of the Motor Vehicles Act.

5.In view of the facts and circumstances of the case, this Court is inclined to consider the appeal and consequently, the award dated 06.09.2007 made in M.C.O.P.No.138 of 2005 passed by the Motor Accident Claims Tribunal cum Chief Judicial Magistrate, Tirunelveli is set aside and the Civil Miscellaneous Appeal is allowed. The appellant/United India Insurance Company is permitted to withdraw the deposited amount along with accrued interest and costs by filing necessary application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal
cum Chief Judicial Magistrate,
Tirunelveli.

Copy To:-

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

+ 1 CC TO Mr.C.JAWAHAR RAVINDRAN, ADVOCATE IN SR No. 74821

PS

TE/SS2-KSM : 24/01/2017 : 2P/4C