



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2016

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.No.856 of 2011
and M.P. (MD) No.1 of 2011

The Branch Manager,
United India Insurance Company Limited,
19, Neela South Street,
Nagappattinam.

...Appellant/ Respondent No.2

Vs.

1.Suresh Babu

...Respondent No.1/Petitioner

2.Nanthakumar

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

PRAYER:- Civil Miscellaneous Appeal filed under Section 30 of the Workmen's Compensation Act, 1923 against the order passed in W.C.No.193 of 2005 dated 14.10.2010 on the file of the Deputy Commissioner for Workmen's Compensation, Trichy.

For Appellant : Mr.C.Jawahar Ravindran

For R1 : Mr.P.Ganapathi Subramanian

J U D G M E N T

It is a case of injury occurred due to the accident happened on 21.04.2005 and the claimant filed a petition under the Workmen's Compensation Act before the Deputy Commissioner for Workmen and Labour at Trichy. The Deputy Commissioner under the Workmen's Act passed the order granting Rs.1,26,444/- towards total compensation against which, the Insurance Company has filed present appeal.

2. The learned counsel for the appellant mainly argued that the vehicle, met with an accident, was already sold to some other third person and the change of owner was effected in the R.C.Book, but, the name of the owner was not changed in the policy with the appellant company and therefore, there is no agreement between the third party and appellant enabling the company to pay the compensation amount. In view of the same, the appellant is not liable to pay compensation.



3. This Court heard the submission on either side and perused the materials available on record.

4. In any event, the vehicle was insured with the appellant company and such a technical plea in respect of granting compensation to the victim cannot be denied and left without any compensation.

5. It is settled position of law that in the case of claim made by the third party, even if there is any violation of the policy conditions, the Insurance Company has to pay the award amount to the claimant and thereafter, recover the same from the owner of the vehicle.

6. In ***Oriental Insurance Co.Ltd., Vs. Shri Nanjappan and others, reported in I (2004) ACC 524 (SC), the Hon'ble Supreme Court*** in paragraph 7 it has been held as follows:-

"(7)For the purpose of recovering the compensation amount from the insured, the insurer shall not be required to file a suit. It may initiate a proceeding before the concerned Executing Court as if the dispute between the insurer and the insured was the subject matter of determination before the Tribunal and the issue is decided against the owner and in favour of the insurer. A notice shall be issued to the insured to furnish security for the entire amount. The offending vehicle shall be attached as a part of the security. If necessity arises, the Executing Court shall take assistance of the concerned Regional Transport Authority. The Executing Court shall pass appropriate orders in accordance with law as to the manner in which the insured, owner of the vehicle shall make payment to the insurer. In case there is any default it shall be open to the Executing Court to direct realisation by disposal of the securities to be furnished or from any other property of the insured."

7. In view of the above, the award of the Tribunal passed in W.C.No.193 of 2005 dated 14.10.2010 on the file of the Deputy Commissioner for Workmen's Compensation, Trichy, is confirmed.

8. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition in M.P.(MD) No.2 of 2011 is also dismissed.

9. The learned counsel for the appellant represented that the entire award amount has been deposited. In view of the dismissal of this appeal, the claimant is permitted to withdraw the amount with accrued interest by filing necessary application before the Tribunal. The Insurance Company is permitted to



recover the award amount from the owner of the vehicle as per the mode incorporated in **Shri Nanjappan's case** referred to above.

sd/-

Assistant Registrar(Writs)

/True copy/

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Sub Assistant Registrar

To,
The Deputy Commissioner for Workmen's Compensation,
Trichy.

+1 cc to M/s.C.Jawahar Ravindran, Advocate in SR.No. 68254

+1 cc to M/s.P.Ganapathi Subramanian, Advocate in SR.No. 68177

CM

CSL/SK-SKN/02.12.2016: 3P/4C

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