

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2017

CORAM:

THE HONOURABLE MRS. JUSTICE. PUSHPA SATHYANARAYANA

CMA.No.536 of 2015 and
M.P.No.1 of 2015

The Branch Manager,
M/s United India Insurance Co. Ltd.,
Vellore Appellant/Respondent II

//vs//

1 . Thiru EmjiRespondent I/Petitioner
2 . Thiru VijayakumarRespondents II/ Respondent I

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act Act 1988 against the Award and decree made in M.C.O.P.No.15 of 2011 dated 29.02.2012 on the file of Additional District Court, (F.T.C.), Thirupathur, Vellore District.

For Appellants : Mr.J.Chandran

For Respondents : Nil

J U D G M E N T

The Insurance company is the appellant challenging the Award of Rs.12,000/- awarded in the case of injury, claiming to be as excessive and exorbitant.

2 . The learned counsel for the appellant contended that the accident was solely due to the negligent act of the petitioner and the insurance company is not liable to pay compensation. It is further stated that since the injured person travelled as a passenger in the Goods Vehicle, which is prohibited under law, the owner of the vehicle is liable, since it is the violation of the policy condition. Though the insurance company has contended that there is a violation in the insurance policy, despite granting opportunity several times, the insurance policy was not produced by the appellant. The Tribunal has specifically stated that the fact that there was no premium paid for the coolies accompanying the goods, has not been proved by the Insurance Company either by oral or documentary evidence. Mere statement that the Insurance Company

is not liable as the policy conditions are violated is unacceptable, in the absence of any evidence. Hence the liability of the Insurance Company cannot be exonerated.

3 . In the result, this Civil Miscellaneous Appeal is dismissed by confirming the Award passed in M.C.O.P.No.15 of 2011 dated 29.02.2012 on the file of Additional District Court (Fast Track), Thirupathur. The appellant/Insurance company is directed to deposit the Award amount along with interest into the credit of M.C.O.P.No.15 of 2011 within a period of four weeks from the date of receipt of a copy of this order, if not deposited already. On such deposit, the claimant is entitled to withdraw the same forthwith. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

mst

To

1.Additional District Judge,
Motor Accident Claims Tribunal,
Additional District Court (Fast Track Court)
Thirupathur,
Vellore District.

2.The Branch Manager,
M/s United India Insurance Co, Ltd.
Vellore.

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CMA.No.536/2015

AD(CO)
VR(18/04/2017)