

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 07.02.2017

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

C.M.A.Nos.286 and 287 of 2003

C.M.A.No.286 of 2003

United India Insurance Co., Ltd.,
Sowcarpet, Chennai - 600 079. ... Appellant/IInd Respondent

Vs.

1. Radhakrishnan 1st Respondent/Petitioner
2. S.Santha 2nd Respondent/1st Respondent

C.M.A.No.287 of 2003

United India Insurance Co., Ltd.,
Sowcarpet, Chennai - 600 079. Appellant/II Respondent

Vs.

1. Elumalai 1st Respondent/Petitioner
2. S.Santha IInd Respondent/Ist Respondent

Prayer:- Civil Miscellaneous Appeals have filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 30.10.2001 made in M.C.O.P.No.563 & 564 of 2000 respectively on the file of the Motor Accidents Claims Tribunal [Sub Judge], Madurantagam.

: Mrs. S. Rathi for

For Appellant : Ms.N.Mala

For Respondents : No Appearance

COMMON JUDGMENT

In an accident that took place on 21.12.1995 a lorry bearing Registration No.TML 6519 belonging to the second respondent and insured with the appellant hit against a bullock cart killing one bullock and injuring the other.

2. The owner of the bullocks approached the Tribunal seeking compensation for which the Tribunal has passed an award for

Rs.56,000/- each for the two bullocks involved in the accident and directed the second respondent and the appellant jointly and severally to meet the liability with interest at 9% per annum. The owner of the lorry was served with notice of these appeals and she has chosen not to appear and remained ex-parte.

3. Before the Tribunal, the Insurance Company did not produce the policy, owing to which the Tribunal has mulcted the liability in equal terms between the appellants and its insurer. Before this Court, the Insurance Company has produced the policy in C.M.P.No.2201 of 2003, which shows that the Insurance Company's liability against damage to property of the third party is limited to Rs.6,000/-. The policy shows that it is an Act policy, which implies that the Insurance Company has undertaken to compensate the victim only under Section 147(2) of the Motor Vehicles Act, where under its liability to compensate damage to property of third party is limited to Rs.6,000/-. Accordingly, the liability of the Insurance Company has to be limited to Rs.6,000/- in each of the two cases.

4. In the result, these two appeals are partially allowed. The appellant is directed to pay Rs.6,000/- with interest at 9% in each of the two cases from which the impugned awards have arisen. The claimants would be at liberty to realise the balance from the owner of the lorry involved in the accident. Both the Insurance Company as well as the owner of the lorry are directed to deposit the amounts representing their respective liability within four weeks from the date of receipt of a copy of this order, whereupon the claimants would be entitled to withdraw the same forthwith. No costs.

Sd/-
Asst.Registrar

/true copy/

सत्यमेव जयते

Sub Asst. Registrar

To

1. The Sub Court,
Motor Accidents Claims Tribunal,
Madurantagam.
 2. The Section Officer,
V.R.Section, High Court, Madras.
- +1cc to M/S. N. Mala, Advocate Sr. 7586

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KJ(CO)
VR(03/04/2017)