



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No.880 of 2015

and

M.P. (md) .No.1 of 2015

United India Insurance Company Limited,
5, Gomathiyapuram New I Street,
Balaji Complex, Sankarankovil,
Tirunelveli District.

... Appellant

Vs.

1.Ayyappan
2.Kulanthairaj

... Respondents

(The second respondent ex parte
before the Tribunal)

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree dated 03.03.2015 made in M.C.O.P.No.114/2012, on the file of the Motor Accident Claims Tribunal, (Principal Subordinate Judge), Tenkasi.

For Appellant : Mr.I.Suthakaran
For Respondents : Mr.M.Saravanan for R1
No Appearance for R2

JUDGMENT

Heard the learned counsel on either side.

2.The appellant Insurance company questioned the impugned award principally on the ground of liability. The claimant Ayyappan, was standing in the bus stop. The two-wheeler owned by one Kulanthairaj, who rode the vehicle in a rash and negligent manner and hit the claimant. The claimant suffered injuries. He filed M.C.O.P.No.114/2012, on the file of the Motor Accident Claims Tribunal, (Principal Subordinate Judge), Tenkasi. The Tribunal awarded a sum of Rs.1,60,000/- as compensation. The Tribunal passed the award by applying pay and recover principle. Challenging the same, the Insurance company has filed this appeal.

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

3.The specific contention of the appellant is that on the date



of accident i.e. 23.10.2010, the vehicle in question was not having any policy coverage with the appellant Insurance company. It is factually correct that the offending vehicle did not enjoy the benefit of any insurance cover. Therefore the appellant cannot be fastened with any liability. However, the owner of the vehicle has to necessarily satisfy the award. The first respondent has to proceed against the second respondent/vehicle owner for satisfaction of the impugned award. The appellant Insurance company is exonerated.

4.The award dated 03.03.2015 made in M.C.O.P.No.114/2012, on the file of the Motor Accident Claims Tribunal, (Principal Subordinate Judge), Tenkasi is modified accordingly.

5.The learned counsel for the appellant submits that they have deposited the entire award amount. Since the appellant is exonerated, the appellant is at liberty to withdraw the same.

6.This Civil Miscellaneous Appeal is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal/
The Principal Subordinate Judge, Tenkasi.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

3 Kulanthairaj
S/o.Chelladurai, 2/3, North Street,
Thalaivankottai, Sivagiri Taluk,
Tirunelveli District

+1 cc to MR.R.J.KARTHICK, Advocate SR.No.88294

+1 cc to MR.I.SUDHAKARAN, Advocate SR.No.88335

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