

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 14.12.2017

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A(MD) .No.327 of 2013

and

M.P.(MD)No.1 of 2013

United India Insurance Company Limited,
Through its Branch Manager,
Balavinayagar Koil Street,
Thoothukudi.

... Appellant / 2nd Respondent**Vs.**

1.S.Sudalai Muthu

... 1st Respondent / Petitioner

2. Annai Therasa Welfare Trust,
Through its Managing Trustee,
No.155-A, 5th Street,
Subbiah Mudaliyar Puram,
Tuticorin.

... 2nd Respondent / 1st Respondent

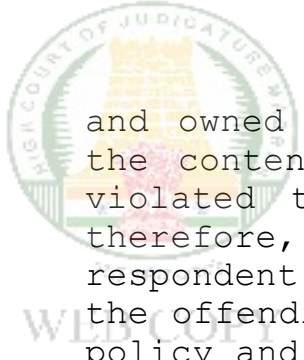
PRAYER :- Civil Miscellaneous Appeal filed Under Section 173 of Motor Vehicle Act, to set aside the judgment and decree passed by the learned Motor Accident Claims Tribunal / II Additional District Judge, Thoothukudi in M.C.O.P.No.342 of 2011 dated 20.04.2012.

For Appellant : Mr.D.Balsubramanian

For 1st Respondent : Mr.S.K.Durai RajFor 2nd Respondent : No appearance**J U D G M E N T**

This Civil miscellaneous appeal has been filed by the appellant/ insurance company on the primary ground that pay and recovery against the appellant was ordered by the Tribunal. The appellant has not disputed the quantum of compensation awarded by the Tribunal.

2. Admittedly, there is a clear finding by the Tribunal that the vehicle involved in the accident is insured by the appellant



and owned by the second respondent. Before the Tribunal, it was the contention of the appellant that the second respondent has violated the terms and conditions of the insurance policy and therefore, they are not liable to pay compensation to the first respondent. There is a clear finding given by the Tribunal that the offending vehicle has violated the terms and conditions of the policy and the vehicle was having a valid insurance at the time of the accident.

3.The learned counsel for the appellant fairly submitted that it is now well settled by the Honourable Supreme Court and by various decisions of this Court that if there is violation of the insurance policy, the insurance company is liable to pay the award amount and recover the same from the insured who is the second respondent in the instant appeal.

4.In view of the settled position, this appeal does not deserve any merit. Accordingly, this civil miscellaneous appeal is dismissed. However, there shall be no order as to costs. Consequently, M.P.(MD)No.1 of 2013 is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The II Additional District Judge,
Motor Accident Claims Tribunal,
Thoothukudi.

2. The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+ 1 cc TO Mr.D.Balsubramanian , Advocate in SR No. 92786

+ 1 cc TO Mr.S.K.Durai raj , Advocate in SR No. 93528

vsg

AE/KK/SAR1/07.02.2018/2P/6C

C.M.A (MD) .No.327 of 2013
and

M.P. (MD) .No.1 of 2013
14.12.2017