

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 18.12.2018
CORAM:
THE HONOURABLE MRS.JUSTICE R. HEMALATHA
C.M.A.No.2754 of 2006

The Oriental Insurance Company Limited
Thiruvarur

... Appellant/2nd Respondent

..Vs..

1.Bahkiyaraj ...1st Respondent/Claimant
2.Raghavan ... 2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 31.10.2002 in M.C.O.P.No.258 of 2001 on the file of the Motor Accident Claims Tribunal, Additional Subordinate Judge, Nagapattinam.

For Appellant : Mr.S.Arun Kumar
For Respondent : Mr.M.Thamizhavel for R1

JUDGMENT

The appellant, Oriental Insurance Company Limited, Thiruvarur has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988, contending that though the learned Additional Subordinate Judge, the Motor Accidents Claims Tribunal, Nagapattinam, in its judgment dated 31.10.2002 directed the present appellant Insurance Company to pay the compensation of Rs.1,27,000/- together with interest at the rate of 9% per annum and then recover the same from the owner of the offending vehicle namely Bajaj Auto bearing Registration No.TN 07 A 2595, did not incorporate the same in the decree.

2.Mr.S.Arun Kumar, learned counsel appearing for the appellant would contend that in paragraph No.7 of the judgment dated 31.10.2002, the tribunal has made a passing reference to initiate the recovery proceedings against the owner of the offending vehicle. He would contend that as per settled law, the Oriental Insurance Company Limited can recover the compensation amount in the same proceedings and such an observation has not been made by the tribunal, while passing the orders in M.C.O.P.No.258 of 2001.

3.Considering the facts and circumstances, since in the instant case the driver of the first respondent/claimant was not in possession of a valid batch on the date of driving of the Bajaj Auto bearing Registration No. TN 07 A 2595, there is a policy violation and therefore, the appellant Insurance Company after paying the compensation amount to the first respondent/claimant can recover the same from the owner of the said vehicle in the same proceedings.

4.With the above observations, the Civil Miscellaneous Appeal is disposed of. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vkr/mbi

To

1.The Additional Subordinate Judge,
Motor Accident Claims Tribunal,
Nagapattinam.

2.The Section officer,
VR Section, High Court, Madras.

+1cc to Mr.S.Arunkumar, Advocate, S.R.No.88471

+1cc to Mr.M.Thamizhavel, Advocate, S.R.No.88061

C.M.A.No.2754 of 2006

KJI (CO)

GSP(13/02/2019)

सत्यमेव जयते

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