

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2018

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.298 of 2005
and C.M.P.No.1566 of 2005

The New India Assurance
Company Limited,
200 C, Dr.Nanjappa Road,
Coimbatore - 18.

... Appellant/2nd Respondent

..Vs..

1.K.C.Anthony
2.V.Angamuthu

...Respondent/Petitioner

...Respondents/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the Decree and Judgment of the Motor Accidents Claims Tribunal (III Additional Sub-Judge incharge for II Additional Sub-Judge), Coimbatore in M.C.O.P No.247 of 1997 dated 24.03.2003.

For Appellant : Mr.R.Neethe Perumal

For Respondents : No Appearance

JUDGMENT

The appellant is the New India Assurance Company Limited, Coimbatore. The first respondent/claimant filed a claim petition in M.C.O.P.No.247 of 1997 under Section 166(1) of Motor Vehicles Act, 1988 seeking compensation of Rs.38,092/- for the damage caused to his vehicle bearing Registration No. MSR 5845.

2.The brief facts of the case of the first respondent/claimant is as follows:

On 06.06.1996, the first respondent/claimant parked his car bearing Registration No. MSR 5845 on the left side of the NSR road, Coimbatore and another car bearing Registration No. TN 37 2379 was parked ahead of the first respondent/claimant. At about 11.15 a.m a speeding Ambassador car bearing Registration No. MTA 8435 belonging to the second respondent hit the first respondent/claimant's car from behind, as a result of which, the said car hit the car bearing Registration No. TN 37 2379.

Consequently, there was heavy damage to the car bearing Registration No. MSR 5845 both on the front and back side. According to the first respondent/claimant, the rash and negligent driving of the driver of the car bearing Registration No. MTA 8435 belonging to the second respondent was the cause of the accident and that since the said car was insured with the New India Assurance Company Limited, the present appellant, both of them are jointly and severally liable to pay compensation of Rs.38,092/- to him. The owner of the car bearing Registration No. MTA 8435 remained absent before the Tribunal and was set ex-parte.

3.The present appellant New India Assurance Company contested the claim petition by filing a counter. The Trial Court after analysing the evidence on record awarded a sum of Rs.25,000/- to the first respondent/claimant for the damage caused to his car bearing Registration No. MSR 5845. Aggrieved over the award passed by the Tribunal, the New India Assurance Company Limited has filed the present appeal.

4.Mr.R.Neethe Perumal, learned counsel appearing for the appellant drew the attention of this Court to the Insurance Policy (Ex.R1) and contended that as far as the damage to properties is concerned, the liability of the Insurance Company is limited to a sum of Rs.6000/- and that the tribunal without considering this aspect, awarded a compensation of Rs.25,000/- to the first respondent/ claimant and has directed the Insurance Company also to pay this amount jointly and severally along with the owner of the vehicle.

5. Section 147 of the Motor Vehicles Act, 1988 deals with the requirements of policies and limits of liability and Section 147(2) (b) of the said Act states that

"in respect of damage to any property of a third party, a limit of six thousand: provided that any policy of Insurance issued with any limited liability and in force, immediately before the commencement of this Act, shall continue to be effective for a period of four months after such commencement or till the date of expiry of such policy whichever is earlier."

6.A perusal of the Insurance Policy (Ex.R1) clearly shows that the appellant Insurance Company had limited its liability to a sum of Rs.6000/- and the learned III Additional Sub Judge, Coimbatore. Motor Accidents Claims Tribunal had directed the present appellant to pay the entire compensation of

Rs.25,000/- jointly and severally along with the interest at the rate of 9% p.a. Therefore, the order passed by the Tribunal is liable to be set aside. The Tribunal has also awarded an exorbitant rate of interest at 9% p.a. Therefore, the interest is reduced to 7.5% p.a. Though the names of the respondents are printed in the cause list, there is no appearance on their behalf.

7.In the result, the Civil Miscellaneous Appeal is partly Allowed and the New India Assurance Company's liability is limited to a sum of Rs.6000/- out of Rs.25,000/- awarded by the Tribunal and the balance amount shall be borne by the owner of the vehicle bearing Registration No. MTA 8435, the second respondent herein. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (Admn II)

//True copy//

Sub Assistant Registrar

rna

To

The III Additional Sub Judge,
Coimbatore.

Copy To

The Section Officer, VR Section, High Court, Madras-104.

+1cc to Mr.R.Neethiperumal, Advocate SR.No.86545

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RGN(CO)
GMY(10/06/2019)

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