



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.56 of 2008

The Divisional Manager,
The New India Assurance Company Ltd.,
Motor Third Party Claim Office,
No.69, 70 Sheikpet Nadu Street,
Kancheepuram.

...Appellant/ 2nd Respondent

Vs

1. A.Ganesan
2. E.Pandiyan

...Respondent 1 / petitioner
Respondent 2 / 1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award passed by the Motor Accident Claims Tribunal, Additional District Judge, (Fast Track Court No.II), Kancheepuram in M.A.C.T.No.100 of 2005 dated 25.08.2006.

For Appellant : Mr.P.G.Padmanabhan

For Respondents : R1 & R2 - No Appearance

JUDGMENT

The instant appeal has been filed by the Insurance Company, challenging the Award dated 25.08.2006 passed by the Motor Accident Claims Tribunal, Additional District Judge, (Fast Track Court No.II), Kancheepuram in M.C.O.P.No.100 of 2005.

2.The brief facts leading to the filing of the instant appeal are as follows:

(i)The first respondent sustained injuries as a result of an accident caused by TATA 407 Van bearing Registration No.TN-25-Z-6129 on 13.02.2005. The first respondent preferred a claim before the Motor Accidents Claims Tribunal, Additional District Judge, (Fast Track Court No.II), Kancheepuram in M.C.O.P.No.100 of 2005 .

3. The brief facts leading to the filing of the instant appeal are as follows:

(i) The 1st respondent sustained injuries as a result of an accident caused by a TATA 407 van bearing Registration



No.TN-25-Z-6129 on 13.02.2005. The first respondent preferred a claim before the Motor Accident Claims Tribunal in MCOP.No.100 of 2005 seeking a compensation Rs.2,00,000/-.

(ii) The Motor Accidents Claims Tribunal by its award dated 25.08.2006 in M.C.O.P.No.100 of 2005 directed the Appellant to pay the first respondent a sum of Rs.25,500/- together with interest at the rate of 7.5%, per annum from the date of claim till the date of realisation.

(iii) Aggrieved by the Award dated, 25.08.2006 passed by the Motor Accident Claims Tribunal in M.C.O.P.No.100 of 2005, the instant appeal has been filed by the Appellant Insurance Company.

4.Heard, Mr.P.G.Padmanabhan, learned Counsel for the Appellant.

5.Till date notice has not been served on the first respondent.

6. Since this Court is going to confirm the Award, there is no necessity to serve notice on the respondents.

7.According to the learned Counsel for the Appellant, the primary ground for challenge in the instant appeal is that the insured namely the second respondent has violated the terms and conditions of the insurance policy by carrying gratuitous passengers in the insured vehicle.

8. This issue is now covered by various decisions of the Hon'ble Supreme Court as well as this Court including the case of S.Iyyapan Vs. United India Insurance Company Limited and another reported in (2013) 7 SCC 62 wherein, the Hon'ble Supreme Court has held that in case of policy violation, the insured is liable to pay compensation and recover the same from the insurer. Therefore in the the considered view of this Court, the grounds raised by the Appellant in this appeal are not maintainable in view of the decision cited supra.

9. In the result, there is no merit in the instant appeal. Accordingly, the Civil Miscellaneous Appeal is dismissed. No Costs.

10. It is represented that the entire award amount has already been deposited before the Tribunal. The first respondent is permitted to withdraw the amount lying to the credit of M.C.O.P.No.100 of 2005 by filing an appropriate application. Consequently, the connected Miscellaneous Petition No.1 of 2008 is closed.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

arb/msr



To
1.Motor Accidents Claims Tribunal,
Additional District Judge (Fast Track Court No.II),
Kancheepuram.

WEB COPY COPY TO

The section officer,
VR Section,
High court
Madras

+lcc to Mr.P.G.Padmanabhan, Advocate SR.No. 60377

C.M.A.No.56 of 2008

ASK(25/10/2018)