

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.870 of 2008

&

M.P.No.1 of 2010

The Manager,
United India Insurance Co. Ltd.,
Uthiramerur,
Kancheepuram.

.. Appellant/2nd Respondent

..Vs..

1.P.Kulothulliba ..1st Respondent/Claimant

2.P.Natarajan ..2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 18.04.2007 made in MCOP.No.460 of 2005 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Tiruvallur.

For Appellant : Mr.S.Arun Kumar

For Respondent 2 : Mr.V.Chanakya
R1 Not ready in notice

J U D G M E N T

The instant appeal has been filed by the Insurance Company challenging the Award dated 18.04.2017 passed by the Motor Accident Claims Tribunal, Sub Court, Tiruvallur in MCOP.No.460 of 2005.

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

2. The first respondent sustained injuries as a result of an accident that took place on 26.05.2005 caused by a vehicle Tanker Lorry bearing registration No.TN09-AA-0678 owned by the second respondent and insured with the Appellant. The first respondent preferred a compensation claim before the Motor Accident Claims Tribunal in M.C.O.P.No.460 of 2005 seeking a compensation of Rs.3,00,000/- as a result of the said accident.

The Motor Accident Claim Tribunal by its award dated 18.04.2007 in M.C.O.P.No.460 of 2005 directed the Appellant to pay the first respondent a sum of Rs.1,35,000/- together with interest at the rate of 9% per annum from the date of claim till the date of realization.

3. Aggrieved by the award dated 18.04.2007 passed in MCOP.No.460 of 2005, the Appellant Insurance Company has filed the instant appeal.

4. Heard Mr.S.Arun Kumar, learned counsel for the Appellant. Notice has not yet been served on the first respondent. There is no necessity to serve the same, since this Court is going to confirm the Award.

5. According to the learned counsel for the Appellant, the primary ground for challenge in the instant appeal is that the first respondent had not disclosed the correct insurance particulars in column 16 of the claim petition. Even though the correct insurance particulars was not given by the first respondent, the Tribunal has erroneously fixed the liability on the Appellant.

6. This Court after having considered the materials available on record and after examining the impugned award and after hearing the submissions of the learned counsel for the Appellant, observes the following:

a) The grounds raised by the Appellant in the instant appeal was raised as a defence in the counter statement filed by the Appellant before the Tribunal.

b) The Tribunal has given a clear finding that only due to the rash and negligent driving by the driver of the vehicle insured with the Appellant, the accident had happened, resulting in the first respondent sustaining injuries.

c) The Tribunal has also given a clear finding that the subject vehicle involved in the accident was insured with the Appellant.

7. In the light of the above observations, this Court is of the considered view that there is no merit in the instant Appeal. Accordingly the Appeal is dismissed without costs. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

8. The Appellant is directed to deposit the amount awarded by the Tribunal together with interest from the date of claim till the date of deposit, after deducting the amount that has already been deposited, to the credit of MCOP.No.460 of 2005 on the file of the Motor Accident Claims Tribunal, Sub Court, Tiruvallur, within a period of four weeks from the date of receipt of a copy of this Order. On such deposit being made, the respondent is permitted to withdraw the amount lying to the credit of MCOP.No.460 of 2005 on the file of the Motor Accident Claims Tribunal, Sub Court, Tiruvallur with accrued interest by filing an appropriate application.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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To

1.The Subordinate Judge
Motor Accident Claims Tribunal,
Tiruvallur.

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

+1 CC to Mr.V. Chanakya, Advocate sr 61515.

+1 CC to Mr.S. Arunkumar, Advocate sr 62305.

C.M.A.No.870 of 2008 &
M.P.No.1 of 2010

KJI (CO)
SP(28/09/2018)

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