BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.10.2018
CORAM:
THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.(MD)No.902 of 2018
in
C.M.P.(MD)No.9783 of 2018

Iffco-Tokio General Insurance Company,
82, 3rd Floor,
Netthimandra Road,
Nagercoil,
Through its Branch Manager. ... Appellant/Respondent No.2

Vs.

1.Mangalaboopathi
2.Muthuananthan
3.Muthukumar
4.Muthukumutha ...Respondents Nos.1 to 4/Petitioners
5.Sathesh ...Respondent No.5/Respondent No.1

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award made in M.C.O.P.No.679 of 2015, dated 30.11.2017, passed by the Motor Accident Claims Tribunal/Special Sub Judge, Tirunelveli.

For Appellant : Mr.V.Sakthivel

JUDGMENT

Being aggrieved by the award passed by the Motor Accident Claims Tribunal/Special Subordinate Judge, Tirunelveli, in M.C.O.P.No.679 of 2015, dated 30.11.2017, the appellant Insurance Company has filed the present appeal.

2.I have heard the learned counsel appearing for the appellant and perused the materials available on record.

3.The appellant Insurance Company is the second respondent in M.C.O.P.No.679 of 2015. The appellant is challenging the award of the Tribunal, dated 30.11.2017, made in M.C.O.P.No.679 of 2015. The learned counsel appearing for the appellant contended that at the time of accident, there was no policy in force issued by the appellant. According to the appellant, the cheque, dated 29.12.2014, issued by the fifth respondent was returned on 04.03.2015 as insufficient funds and the appellant cancelled the policy, dated 29.12.2014, issued to fifth respondent. The fifth respondent on 12.03.2015 paid the premium amount by cash and the appellant issued a fresh policy, dated 12.03.2015. These contentions are without merits. Admittedly, the fifth respondent issued a cheque, dated 29.12.2014 and the appellant issued the policy on the same date to the fifth respondent. According to the appellant, they presented the cheque on 02.01.2015 and the same was returned by the Bank on 04.03.2015 as insufficient funds. This contention of the appellant is unbelievable. When the cheque was presented on 02.01.2015 to the bankers, it must be encashed or returned within few days and not after three months. Further, the appellant has not produced the memo issued by the Bank for returning the cheque. The Tribunal has considered the first Proposal Form and the second Proposal Form and held that the signature of the fifth respondent in the second Proposal Form differs from the signature in the first Proposal Form. There are corrections in the second Proposal Form and considering the second Proposal Form Ex.P6, the Tribunal has held that it is a false document and has given a reason for the said conclusion. The appellant has not informed the fifth respondent or the Regional Transport Office about the cancellation of policy, dated 29.12.2014.

4.Considering all the above facts, the Tribunal has held that the policy, dated 29.12.2014, issued by the appellant was in force on the date of accident and the appellant is liable to pay compensation. This Court is of the considered view that the said finding is not perverse and there is no reason warranting interference by this Court.

5.In the result, the Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal is confirmed. The appellant Insurance Company is directed to deposit the award amount, less amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants are permitted to withdraw the award amount as apportioned by the Tribunal by filing necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar(CS-III)

To
The Special Sub Judge,
Motor Accident Claims Tribunal, Tirunelveli.

+1CC to Mr.V.Sakthivel, Advocate, SR.No.91016

C.M.A.(MD)No.902 of 2018
22.10.2018

AM

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