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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal No.1687 of 2006
and CMP No.7421 of 2006

National Insurance Co. Ltd.,
Divisional Office,
19 Officer's Lane, 1st Floor,
Opp. Lakshmi Theatre,
Vellore 632 001 ... Appellant/2nd Respondent

Vs.

1. Balaji
2. Venkatesan ... Respondents/Petitioner

(R-2 remained exparte before the Tribunal,
hence notice is dispensed with)

Appeal filed under Section 173 of Motor Vehicles Act 1988, against the Judgment and Decree, dated 05.01.2006 made in M.C.O.P.No.477 of 2004 on the file of the Motor Accident Claims Tribunal, Additional District and Sessions Court, Fast Track Court No.2, Ranipet.

For Appellant : Mr. N.Vijayaraghavan
For Respondents : No Appearance.

J U D G M E N T

In respect of the damages caused to the Lorry, bearing Registration No.TDQ 7747, on account of the accident that took place on 14.12.2000, a claim petition has been filed in M.C.O.P.No.477 of 2004, by one Balaji, who is stated to be the owner of the lorry, claiming a sum of Rs.50,000/-. The said lorry is stated to be insured with the appellant herein / Insurer.

2. The Tribunal, on a consideration of the materials and evidences placed before it, has assessed the compensation at Rs.25,000/-. As against the same, this Appeal is preferred by the Insurance Company.

3. The learned counsel for the appellant / Insurance Company submitted that the Tribunal grossly erred in fastening the liability on the appellant, in a case where the vehicle was not insured with the appellant and hence, the appellant ought to have been exonerated from liability. The learned counsel also

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submitted that the sum of Rs.25,000/- awarded by the Tribunal under various heads is far in excess of what may be justified in the circumstances of the case.

4. A perusal of the award passed by the Claims Tribunal would go to show that the Tribunal has taken into consideration Ex.R-1-Insurance Policy copy and held that the Insurance Company ought to have taken the defence at the initial stage itself that they are not liable to pay compensation, but contrary to that, earlier admitted that they are liable to compensate but later has taken a different stand that they are not liable to compensate the insured. Further, the Tribunal has observed that the original insurance policy ought to have been produced before the Court, instead of copy. The Tribunal has also drawn adverse inference against the appellant herein, since the Insurance Policy was not proved by the appellant through oral and documentary evidence.

5. The above said reasonings of the Tribunal are based on facts, law and materials available on record, which cannot be brushed aside by this Court easily. Further, when the basic document, i.e., insurance policy was not filed properly or any evidence was not let in, to prove such document, this Court is not in a position to interfere with the findings rendered. Had there been an original insurance policy, it would have been helpful for this Court to arrive at a just compensation or to find out the justifiability of the award.

6. In such view of the matter, affirming the judgment and decree of the Tribunal, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, the connected CMP is closed.

7. The appellant / Insurance Company shall deposit the entire compensation amount, along with interests and costs, as awarded by the Claims Tribunal, less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the deposited amount to the Savings Bank Account of the claimant first respondent herein, through RTGS, one week thereafter.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
   Additional District and Sessions Court,
   Fast Track Court No.2, Ranipet.

2. The Section Officer, V.R.Section,
   Madras High Court, Chennai 104

AKM/10.01.2020/2P-3C /

C.M.A.No.1687 of 2006
& CMP No.7421 of 2006

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