

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.M.A.No.3060 of 2018
and C.M.P.No.23181 of 2018

The Oriental Insurance Company Limited,
Rep by Branch Manager,
Branch Office,
Gani Building,
Bangalore - 9,
Karnataka State. ... Appellant/2nd Respondent

Vs.

1.Doddahidden ... 1st Respondent/Petitioner

2.C.S.Prabakar ... 2nd Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 27.02.2002 made in M.C.O.P.No.772 of 2000 on the file of Motor Accidents Claims Tribunal, Principal District Court, Dharmapuri at Krishnagiri.

For Appellant : Mr.S.J.Jagadev

J U D G M E N T

सत्यमेव जयते

This Civil Miscellaneous Appeal is filed against the award dated 27.02.2002 made in M.C.O.P.No.772 of 2000 on the file of Motor Accidents Claims Tribunal, Principal District Court, Dharmapuri at Krishnagiri.

2.The appellant/Insurance Company is second respondent in M.C.O.P.No.772 of 2000 on the file of the Motor Accidents Claims Tribunal, Principal District Court, Dharmapuri at Krishnagiri. The first respondent/claimant filed the above claim petition claiming a sum of Rs.2,00,000/- as compensation for the injuries sustained by him in the accident that took place on 14.12.1998.

3.The Tribunal considering the pleadings, oral and

documentary evidence, held that the accident occurred only due to rash and negligent driving by the driver of the tempo van belonging to the second respondent and directed the appellant being the insurer of the said vehicle, to pay a sum of Rs.1,75,000/- as compensation to the first respondent/claimant.

4. Against the said award dated 27.02.2002 made in M.C.O.P.No.772 of 2000, the appellant/Insurance Company has come out with the present appeal challenging the liability fastened on them as well as quantum of compensation awarded by the Tribunal.

5. The learned counsel appearing for the appellant contended that on the date of accident i.e., 14.12.1998, there was no policy issued by the appellant to the second respondent offending vehicle. The first respondent/claimant has failed to prove that the policy was in force on the date of accident. The Tribunal has erred in casting the burden on the appellant to prove that there was no policy on the date of accident. In any event, the amounts awarded by the Tribunal under different heads are excessive and prayed for setting aside the award of the Tribunal.

6. Heard the learned counsel appearing for the appellant and perused the materials available on record.

7. From the award of the Tribunal, it is seen that there is a discrepancy in the contention of the appellant with regard to the insurance policy. According to the appellant, a letter was written to the Bangalore branch as vehicle of the second respondent was registered there. The appellant examined only an Assistant from the Salem branch and they have not examined anybody from the Bangalore branch to show that the appellant did not issue any policy insuring offending vehicle belonging to the second respondent. The Tribunal has held that based on the letter dated 27.12.2001 marked as Ex.R1, it cannot be decided that there was no policy issued by appellant.

8. As far as quantum of compensation is concerned, the Tribunal after considering oral and documentary evidence let in by the parties, has awarded compensation, which is not excessive and it does not warrant any interference by this Court.

9. In the result, the Civil Miscellaneous Appeal is dismissed and award of the Tribunal is confirmed. The appellant/Insurance Company is directed to deposit entire amount awarded by the Tribunal along with interest and costs, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the first respondent/claimant is permitted to withdraw the entire award amount along with interest and costs, less the amount, if any, already withdrawn. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

kj/rst
To

The Motor Accidents Claims Tribunal,
Principal District Judge,
Dharmapuri at Krishnagiri.

Copy to

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

+1 CC to Mr.S.J.Jagadev, Advocate sr 1500.

C.M.A.No.3060 of 2018
and C.M.P.No.23181 of 2018

RJI (CO)
SP(27/04/2019)

सत्यमेव जयते

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