IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2020

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.M.A.No.1311 of 2016
and
CMP No.10056 of 2016

United India Insurance Co. Ltd.,
Branch Manager, Branch Office,
No.280, Main Road,
Mettupalayam 641 301. ... Appellant/2nd Respondent

Vs

1. Superintendent Engineer,
   Salem Electricity Distribution Circle,
   Tamilnadu Electricity Board,
   Salem 636 014.

2. The Assistant Engineer,
   Operation and Maintenance,
   Tamil Nadu Electricity Board, Bazaar,
   Salem 636 001. ... Respondents 1 & 2/Claimant

3. S.Jayanthi ... 3rd Respondents/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 14.07.2015 made in M.C.O.P.No.1618 of 2003 on the file of the Motor Accidents Claims Tribunal, Salem, Special Subordinate Judge No.2, Salem.

For Appellant : Mr.C.Paranthaman
For Respondents : Mr.V.Viswanathan for R1 and R2
No Appearance for R3

J U D G M E N T

(This case has been heard through Video Conferencing)

Heard the learned counsel for the appellant and the learned counsel for the respondents 1 and 2.

2.The appeal is filed by the Insurance Company on the short point that the vehicle insured under them has caused damage to the electrical transformer of the claimant/TNEB. Inspite of pointing out that the coverage for the loss of goods under the Insurance policy was maximum of Rs.6,000/, the Tribunal unmindful of the limited liability has awarded Rs.56,400/- payable by the Insurance Company with 7.5% interest.

3. Learned counsel for the appellant would submit that as per the policy terms, which is marked as Ex.R2, the liability of loss of damages of goods is limited only upto Rs.6,000/- and the terms of the contract is very specific and restricted with limited liability. The Insurance Company cannot be mulcted with additional burden beyond the terms of Insurance policy.

4.Being convinced with the said submission, this Court in order to give an opportunity to the vehicle owner again ordered fresh notice to the third respondent who remain absent before the Tribunal and also before this Court. Inspite of notice, the third respondent has not chosen to appear before this Court in person or through counsel.

5.Today, this Court heard the counsel for the appellant and the learned counsel for the claimant. The terms of policy in Ex.R1 perused. It is clearly stated in the policy Ex.R1 that the liability for damages to goods is limited upto Rs.6,000/- in a year. The insurance policy covers the period 22.05.1999 to 21.05.2000. The accident has occurred on 26.01.2000. Therefore, the maximum liability, which can be fastened on the Insurance Company as per the terms of the Insurance contract policy is only RS.6,000/-. Only to that extent, the Insurance Company is liable to indemnify the vehicle owner and the balance amount has to be paid by the vehicle owner.

6.Accordingly, the Civil Miscellaneous Appeal is partly allowed. While confirming the quantum of damages, Rs.6,000/- alone with interest at 7.5% to be paid by the appellant/Insurance Company, the balance amount of Rs.50,400/- with interest shall be recovered from the vehicle owner/the third respondent herein.

6. Learned counsel for the appellant submits that as a pre-condition imposed by this Court, the appellant had deposited a sum of Rs.25,000/- in the MCOP account. If it is so, the Insurance Company is permitted to withdraw the balance amount less Rs.6000/- with interest at 7.5%p.a. on appropriate application. No costs. The connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

vri

To

The Special Subordinate Judge No.2,
Motor Accidents Claims Tribunal,
Salem.

+1cc to Mr.V.Viswanathan, Advocate, S.R.No.41811
+1cc to Mr.C.Paranthaman, Advocate, S.R.No.42034

CMA No.1311 of 2016

VG-II(CO)
HS(03/09/2021)