IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2231 of 2013

Branch Manager
United India Insurance Co.Ltd.,
Cuddalore
... IInd Respondent/Appellant

Vs.

1.V.Mohanraj ...Petitioner/Respondent
2.S.Azhaganandam ...Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 07.12.2011 made in M.C.O.P.No.174 of 2010 passed by the Accident Claims Tribunal (Principal Sub-Judge) at Tindivanam.

For Appellant : Mr.S.Arun Kumar

For Respondents : No Appearance

J U D G M E N T

The Civil Miscellaneous Appeal is filed by the appellant/insurance company seeking to set aside the judgment and decree dated 07.12.2011 made in M.C.O.P.No.174 of 2010 passed by the Accident Claims Tribunal (Principal Sub-Judge) at Tindivanam.

2.The appellant herein is the Insurance Company in M.C.O.P.No.174 of 2010 on the file of the Accident Claims Tribunal (Principal Sub-Judge) at Tindivanam. An appeal has been preferred by the Insurance company to set aside the order.

3.The case of the appellant is that the Tribunal has awarded a sum of Rs.1,19,046/- along with interest at the rate of Rs.7.5% against the 1st respondent / owner of the vehicle. The 2nd respondent is the Insurance Company. The Tribunal has directed the 2nd respondent to pay the awarded amount to the claimant and recover it from the owner of the vehicle. The Tribunal has erred in directing the Appellant to pay the compensation and to recover the same after giving a finding that there was no policy issued by them in force on the date of accident and a policy was taken subsequent to the accident.

4.Heard the learned counsel appearing for the appellant. Despite serve of notice to the respondents / owner of the vehicle and the claimant and their names being printed in the cause list, they have not appeared before this Court to defend their case and hence the Civil Miscellaneous Appeal is taken up for final disposal.

5. It is seen from the records that the owner of the offending vehicle had policy coverage from 25.11.2009 to 24.11.2010. Earlier the said vehicle was insured between 19.09.2008 to 18.09.2009. There was no policy in existence on 21.11.2009, the date of occurrence of the said accident. The Tribunal has directed the Insurance Company to pay the awarded sum of Rs.1,19,046/- along with interest at the rate of Rs.7.5% and collect the same from the owner, which is erroneous and has to be set aisde.

6.It is clear that there is no contract of coverage in existence at the relevant point of time and the appellant is right in stating that they are not liable to pay any compensation as directed by the Tribunal. Only the owner of the vehicle is liable to pay the compensation to the claimant. Both the owner of the vehicle and the claimant did not appear before this Court even though they were served with notice and their names being printed in the cause list.

7.In the result, this civil miscellaneous petition stands allowed. The claimant is at liberty to proceed against the owner of the vehicle in accordance with law based on the award and the appeal. The owner of the vehicle is liable to pay the awarded amount of compensation to the claimant. No costs.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

To
1.The Motor Accident Claims Tribunal
(Principal Subordinate Judge)
Tindivanam

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

+1 cc to M/s.S.Arun Kumar Advocate sr11026

ad(co)
aa10/11/2020