

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2829 of 2013
and M.P.No.1 of 2013

The Oriental Insurance Co. Ltd.
No.115, Broadway Road,
Chennai - 108.

...Appellant/2nd Respondent

vs.

1.Govindan
2.Srinivasan
3.R.Varadharajan
4.ICICI Finance Limited (Financier),
Rep. by its Manager,
No.1, Cenotaph Road,
Teynampet, Chennai - 18.

...Respondents/Petitioners &
Respondents 1,3 & 4

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.15 of 2010 dated 31.01.2013 on the file of the Motor Accidents Claims Tribunal, V Court of Small Causes, Chennai.

For Appellant :Mr.E.Rajadurai
for M/s.N.Vijaya Raghavan

For Respondents : Mr.C.Munusamy for R1 - NA
Batta with petition Reg.
R2 to R4(not ready in notice

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JUDGMENT

(This appeal was heard through the Video Conferencing)

This appeal has been filed by the Insurance Company challenging the Award dated 31.01.2013 passed by the Motor Accident Claims Tribunal, V Court of Small Causes, Chennai in

2.Heard Mr.E.Rajadurai, learned counsel for the Appellant. Despite the name of the respondent having been printed in the cause list, there is no appearance on his side.

3.The only ground raised by the Appellant in this appeal is that the vehicle which caused the accident resulting in the first respondent sustaining injuries on 13.12.2004, is not insured with them and hence, they are not liable to compensate the first respondent/claimant.

4.The details of the compensation awarded by the Tribunal under the impugned Award are as follows:

Loss of Income	-	Rs.20,000/-
Transport to Hospital	-	Rs.10,000/-
Extra nourishment	-	Rs.7,000/-
Attender charges	-	Rs.2,000/-
Pain and suffering	-	Rs.20,000/-
Disability at 50% at Rs.2,000/-	-	Rs.1,00,000/-
per percentage	-----	
Total		Rs.1,59,000/-

5.Before the Tribunal, the first respondent has filed 19 documents which were marked as Exs.P1 to P19 and three witnesses were examined on his side namely the first respondent/claimant himself as PW1 and the Doctor who examined him as PW2 and another witness by name Mr.Ramachandran as PW3, Senior Assistant at Ramachandra Medical College and Hospital. On the side of the Appellant Insurance Company, neither any document was filed nor any witness examined before the Tribunal.

6.In his claim petition filed before the Tribunal, the first respondent has given full particulars of the insurer of the vehicle which caused the accident. As seen from column No.16 of the claim petition, the Appellant is the insurer. The first respondent/claimant has also taken a consistent stand as seen from both oral and documentary evidence available before the Tribunal that the Appellant Insurance Company is the insurer of the vehicle which caused the accident.

7.As seen from the evidence available on record, the involvement of the subject vehicle in the accident has also not been disputed by the Appellant. When a consistent stand has been taken by the first respondent/claimant before the Tribunal that the Appellant Insurance Company is the insurer for the vehicle which caused the accident, he has discharged his initial

burden of proving that the Appellant Insurance Company is the insurer. The burden has shifted upon the Appellant Insurance Company to disprove the said contention of the first respondent. However, as seen from the evidence available on record, though they have stated that they are not the insurer for the vehicle, they have not placed any iota of evidence before the Tribunal to prove that the vehicle which caused the accident is not insured with them. The Tribunal has rightly held the Appellant/insurance company liable to compensate the first respondent/claimant.

8. For the foregoing reasons, this Court is of the considered view that there is no merit in this appeal.

9. Accordingly, this appeal shall stand dismissed. The Appellant Insurance Company is directed to deposit the entire amount awarded by the Tribunal, after deducting the amount already deposited if any, together with interest at the rate of 7.5% from the date of the claim till the date of realization to the credit of M.C.O.P.No.15 of 2010, on the file of the Motor Accidents Claims Tribunal, V Court of Small Causes, Chennai, 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 Award amount directly to the bank account of first respondent/claimant, through RTGS, within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Motor Accidents Claims Tribunal,
V Court of Small Causes, Chennai.

2. The Section Officer,
Vernacular Section,
Madras High Court.

C.M.A.No.2829 of 2013

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