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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.51 of 2013

and

M.P. No.1 of 2013

The Divisional Manager,
M/s. New India Assurance Co. Ltd.,
No.30, Jawaharlal Nehru Street,
Pondicherry.

...Appellant

vs.

1. Meenatchi

2.Muthammal

3.Muthukumar

4.Muthuvel (Minor)

4th respondent Minor Rep. by
Mother and next friend 1st respondent)

5.Govindammal

6. S. Balaji

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated in M.C.O.P. No. 221 of 2009, dated 20.07.2012 on the file of the Court of the Motor Accident Claims Tribunal, Principal Subordinate Court, Tindivanam.

For Appellant : Mr.E. Rajadurai for
Mr.N.Vijayaraghavan

For Respondents : Ms. Aishwarya for
M/s.N.Suresh for R6
R1 to R5 -Served -
No appearance

JUDGMENT

(This appeal was heard through the Video Conferencing)

This appeal has been filed by the appellant / Insurance Company challenging the award dated 20.07.2012 passed by the Motor Accidents Claims Tribunal, Principal Subordinate Court, Tindivanam in MCOP No.221 of 2009.



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2. Heard Mr.E.Rajadurai, learned counsel for the appellant and Ms.Aishwarya, learned counsel for the 6th respondent. Respondents 1 to 5 have been duly served and the names have also been printed in the cause list, today but there is no representation on their side.

3. This Court has perused the materials and evidence available on record before the Tribunal.

4. The appellant / Insurance Company has challenged the award only on the ground that they are not liable to compensate the claimants/ respondents 1 to 5 since on the date of the accident i.e. 02.01.09, there was no insurance coverage for the subject vehicle. According to them, the insurance policy got expired on 04.03.2008 itself, whereas the accident happened on 02.01.2009 and therefore, they are not liable to compensate the claim.

5. Before the Tribunal, the Insurance policy has been marked as Ex.R1 by the appellant / Insurance Company. The Tribunal has also observed in the impugned award that the insurance policy is valid only for the period between 05.03.2007 and 04.03.2008. The Tribunal has also observed that the accident happened on 02.01.2009. Despite the said finding, the Tribunal has erroneously mulcted the liability on the appellant / Insurance Company. It is settled law that the insurance company is liable to compensate the claim only when there is valid insurance coverage on the date of the accident. Admittedly, the date of the accident in the instant case is 02.01.2009, whereas the policy expired as early as on 04.03.2008. However, the Tribunal by total non application of mind and without any basis has mulcted the liability on the appellant / Insurance Company. Even though the Tribunal has observed that there are various decisions of the High Court as well as the Supreme Court which entitles the claimants to seek compensation despite expiry of the insurance policy, the Tribunal has not referred to any of the said decisions under the impugned award. Factually, there are no such judicial precedents in support of the claimants.

6. It is settled law as indicated earlier that when there is no insurance coverage on the date of the accident, the insurer is not liable to compensate.

7. For the foregoing reasons, the impugned award passed against the appellant / Insurance company has to be necessarily quashed.



8. In the result, the impugned award dated 20.07.2012 passed against the appellant /Insurance company is hereby set aside and the Civil Miscellaneous Appeal is allowed and the 6th respondent / owner of the vehicle is directed to pay the compensation amount as per the impugned award dated 20.07.2012 in MCOP No.221 of 2009 on the file of the Motor Accidents Claims tribunal, Principal Subordinate Court, Tindivanam. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Principal Subordinate Judge,
Motor Accident Claims Tribunal,
Tindivanam.

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

C.M.A.No.51 of 2013

KJ(CO)
SP(24/08/2021)