



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated 15.10.2020

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A.(MD)No.856 of 2008

WEB COPY

The New India Assurance Company Ltd.,
Through its Divisional Manager
Divisional Office
No.2, Main Road
Dindigul 624 001

...Appellant/ 3rd Respondent

Vs.

1.V.Subramani

....1st Respondent/Petitioner

2.Sivaji

...2nd Respondent/1st Respondent

3.The Branch Manager

United India Insurance Company Limited
R.P.R.Complex
Telegraph Office Upstairs
Nethaji By-pass Road
Dharmapuri 636 701

...3rd Respondent/2nd Respondent

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the Judgment and Decree of the Motor Accident Claims Tribunal (Fast Track Court), Dindigul passed in M.C.O.P.No.903 of 2003 dated 30.11.2007.

For Appellant : Mr.J.S.Murali
R1 & R2 : No Appearance

JUDGMENT

This appeal is directed against the award passed by the Motor Accident Claims Tribunal (Fast Track Court), Dindigul in M.C.O.P.No. 903 of 2003, wherein, the first respondent/claimant sought compensation of Rs.2,00,000/-. The Tribunal after considering the oral and documentary evidence and arguments on both sides, awarded a sum of Rs.20,000/- along with interest at 7.5% per annum as compensation. Questing the legality, the Insurance Company has preferred this Civil Miscellaneous Appeal.

2.According to the claimant, on 17.08.1998 when he was travelling in a Mahendra Van bearing Registration No.TN-57-5702 from Vedasandur to Dindigul, a lorry bearing Registration No.KA-18-687 which was coming in the opposite direction driven by its driver in terrible speed and dashed the Van. In the accident, he sustained injuries and the owner cum driver of the Van namely



3.Mr.J.S.Murali, learned counsel appearing for the appellant/Insurance Company would argue that the appellant is the insurer of the Mahendra Van bearing Registration No. TN-57-5702. But the owner cum driver of the said van namely Nagaraj was not impleaded as respondent in the claim petition. The contention of the learned counsel for the appellant is that even though the owner of the offending vehicle died, without impleading the insured person or his legal heir as a respondent, the liability cannot be fastened on the insurer of the vehicle.

4.Heard the learned counsel for the appellant.

5.The Tribunal, after considering the oral and documentary evidence and arguments of the learned counsel appearing for both sides and also appreciating the evidence on record, has awarded compensation of Rs.20,000/- along with interest at 7.5% per annum.

6.In the case on hand, it is not disputed that the offending vehicle had valid insurance with the appellant herein at that relevant point of time and injured claimant travelled in the vehicle, when the accident took place on 17.08.1998 and the owner cum driver of the offending Van bearing Registration No.TN-57-5702 died on the spot. Taking note of the above fact, this Court is of the opinion that the non-inclusion of the owner cum driver of the Van or his legal heirs, would not affect the case of the first respondent/claimant. Hence, I find no merit in the contention of the learned counsel for the appellant. Accordingly, this Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Judge, Motor Accident Claims Tribunal
(Fast Track Court)
Dindigul

2.The Section Officer, V.R.Section-2 copies
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.J.S. MURALI, Advocate (SR-20310[F] dated 16/10/2020)

C.M.A. (MD) No.856 of 2008
15.10.2020

SGS (CO)

KM (20.11.2020) 3P 5C