



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.M.A(MD)No.688 of 2019

and C.M.P(MD) No.8454 of 2019

WEB COPY

Deputy Manager,
The Oriental Insurance Co. Limited,
T.P.Claims Hub, 16, KJR Complex,
North Veli Street,
Madurai 625 001.

... Appellant/2nd Respondent

Vs.

1.P.Rajendran

... 1st Respondent/Petitioner

2.T.Sadasivan

... 2nd Respondent/1st Respondent

PRAYER: The Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, 1988, against the Decree and Judgment dated 25.02.2019 and made in M.C.O.P.No.91 of 2018 by the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate, Madurai.

For Appellant	: Mr.E.Chandrasekaran
For R2	: Mr.M.Ramu
For R1	: No Appearance

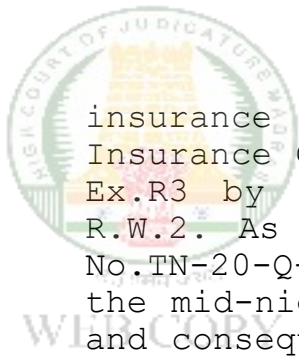
J U D G M E N T

The Insurance Company, who is arrayed as the second respondent in M.C.O.P. No.91 of 2018 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Madurai, is the appellant herein.

2. In a road accident that took place on the New Year Day of 2018, the claimant/first respondent herein while he was riding his two wheeler, the offending vehicle, a Car bearing Registration No. TN-20-Q-4795 driven by the driver of the second respondent, alleged to have been insured with the appellant herein, collided, in which the first respondent/claimant suffered injuries. He was treated in the hospital and 20% permanent disability was assessed by the Medical Council in Government Rajaji Hospital, Madurai. However, there is no functional disability. After due enquiry, the Tribunal has awarded Rs.1,67,000/- (Rupees one lakh and sixty seven thousand only) as the compensation amount. This is now challenged by the Insurance Company.

3. The learned counsel for the appellant submitted that as on the date of the accident, the offending car did not have any

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insurance cover with the appellant company. He submitted that the Insurance Company had produced a Policy, which came to be marked as Ex.R3 by the Tribunal, and proved through one of its official, R.W.2. As per this Policy, the offending Car bearing Registration No.TN-20-Q-4795 was insured with the appellant from 09.05.2016 to the mid-night of 08.05.2017. Thereafter, the Policy was not renewed and consequently the appellant cannot be mulcted with liability. He added that in paragraph No. 8 of the award, the Tribunal however has denoted the period of insurance cover from 09.05.2017 to 08.05.2018. This is a mistake that alone has to be rectified, argued by the learned counsel.

4. Heard the learned counsel for the appellant and the learned counsel for the second respondent. There is no representation for the first respondent/claimant.

5. The learned counsel for the second respondent submitted that the second respondent sold the offending vehicle to a third party and he alone is liable.

6. This Court has verified Ext.R.3, Insurance policy. Apparently, the Tribunal was under a misconception about the period during which the vehicle was under an insurance cover with the appellant. To reiterate, the vehicle carried insurance only over the term from 09.05.2016 to 08.05.2017 as per Ext.R.3 and not between 09.05.2017 and 08.05.2018. Necessarily, the appellant must succeed in this appeal.

7. Turning to the second part of the submission of the learned counsel for the second respondent, law is settled that he who is the registered owner of the vehicle as on the date of the accident alone will be liable.

8. The claimant shall only realize the award amount from the owner of the vehicle.

9. It is submitted before the Court that the Insurance Company has deposited the entire amount with the Tribunal. It is permitted to have the same refunded to it with accrued interest, if any.

10. In conclusion, the appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

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Sub Assistant Registrar(CS)



To

The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Madurai.

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Copy to: The Section Officer
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2)

+1CC to Mr.E.Chandrasekaran, Advocate, SR.No.7068.

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