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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.3.2021

CORAM:

THE HON'BLE Mr.JUSTICE D.KRISHNAKUMAR

Civil Miscellaneous Appeal No.154 of 2013  
M.P.No.1 of 2013

The New India Assurance Co. Ltd.,  
No.1, Bharathi Road, Cuddalore.

... 2<sup>nd</sup> Respondent/Appellant

..Vs..

1. Chinnadurai,  
S/o Pachamuthu

... Petitioner/Respondent -1

2. V.K.Nanthakumar  
S/o Kuladaivel

... 1st Respondent/Respondent-2

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and decree dated 9.12.2011 made in M.C.O.P.No.317 of 2007 on the file of Additional Subordinate Judge, (Motor Accidents Claims Tribunal) Virudhachalam.

For Appellant : Mr.M.Krishnamoorthy

R1-Not Ready Notice,

R2-Died

JUDGMENT

Brief facts of the claimant's case is as follows:

On 22.10.2006 at about 8.30 p.m., while the petitioner was standing north side of the road, near Avinangudi police station, a lorry bearing registration No.TN 33 AE 9249 owned by the second respondent herein, came from Pennadam to Tittagudi main road, driven by its driver in a rash and negligent manner and hit the petitioner, thereby caused accident. In the said accident, the petitioner sustained multiple grievous injuries all over the body. The petitioner took treatment in Government



2. The second respondent herein remained exparte before the tribunal. On the side of the claimants, P.W.1 & 2 were examined and Ex.P1 to P-7 were marked. On the side of the respondent, R.W.1 was examined and Ex.R1 to R4 were marked.

4. Challenging the said award, Insurance Company has filed the present appeal challenging the liability of the Insurance Company.

6. According to the counsel appearing for the appellant/Insurance Company, the offending vehicle was not insured with the appellant Insurance Company. Further, since the Motor Vehicle Inspector reported that the offending vehicle was insured with the appellant Insurance company, he served notice to the Motor Vehicle Inspector and the owner of the vehicle, the second respondent herein. Notice and the acknowledgment cards were marked as Ex.R1 to R4. These are the disputed fact cannot be gone into in the present appeal. However, the appellant has not taken any steps to disprove the report of the Motor Vehicle Inspector. Further, notice sent to the first respondent returned as not found and the second respondent died. The appellant has not taken any steps to bring the legal heirs of the deceased second respondent.

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award passed by the tribunal and the appeal is liable to be dismissed.

8. Consequently, the appeal stands dismissed. No costs. Connected miscellaneous petition is closed.

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Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Subordinate Judge  
(Motor Accidents Claims Tribunal)  
Virudhachalam.

2. The Section Officer,  
V.R.Section, Madras High Court,  
Chennai-104.

+1cc to Mr.M.Krishnamoorthy, Advocate, S.R.No.17449

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EV(CO)  
HS(16/09/2021)