



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2021

CORAM:

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.NOS.1300 AND 1301 OF 2016

AND

M.P.NOS.9976 AND 9977 OF 2016

The Branch Manager,
Oriental Insurance Co. Ltd.,
Branch Office,
Kuppam.

... Appellant/
2nd Respondent in both the appeals

Vs.

1.V.Sreenath ... 1st Respondent/
Petitioner in C.M.A.No.1300 of 2016

T.P.Vijayalakshmi ... 1st Respondent in C.M.A.No.1301 of 2016

2.Abeed Hussain
3.Venkatappa Venkatesh
4.The Divisional Manager,
New India Assurance Co. Ltd.,
Flat No.11 & 12 Ground Floor,
Aditya Tower, Balaji Colony,
Thirupathi.

... Respondents 2 to 4 /
Respondents 1,3 & 4 in both the appeals

Common Prayer:

Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 05.11.2014 made in M.C.O.P.Nos.1575 and 1576 of 2013 on the file of Motor Accident Claims Tribunal, Special Sub-Judge, Krishnagiri.

For Appellant : Mr.N.Vijayaraghavan
For Respondents : Mr.M.Sivakumar for R1
R2 - Served - No Appearance
R3 - Not known
Mr.M.Krishnamoorthy for R4



JUDGMENT

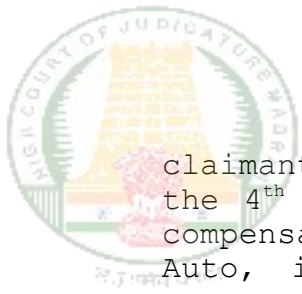
These appeals have been filed by the Insurance Company challenging the common award dated 05.11.2014 passed by the Motor Accidents Claims Tribunal, Special Sub-Judge, Krishnagiri, in M.C.O.P.Nos.1575 and 1576 of 2013.

2. The appellant/Insurance Company has challenged the impugned award questioning its liability. Since according to them, on the date of the accident i.e., on 13.05.2010, the Insurance policy was not in force as it came into effect only on 15.05.2010 even according to the respondent/claimants.

3. The learned counsel for the appellant/Insurance Company drew the attention of this Court to the claim petition and in particular, he referred to Sl.No.16, which deals with the policy details and he would submit that the respondents/claimants have admitted that the policy number issued by the appellant/Insurance Company came into force only for the period from 15.05.2010 to 14.05.2011, whereas, the accident happened on 13.05.2010. In the counter statement filed by the appellant/Insurance Company before the Tribunal, the appellant/Insurance Company has taken a specific stand that they are not liable to compensate the claimants, in view of the fact that the policy came into force only on 15.05.2010, whereas, the accident happened on 13.05.2010 two days prior to the date of the policy.

4. This Court has also perused and examined the insurance policy which was issued by the appellant/Insurance Company which was marked as an Exhibit before the Tribunal and as seen from the policy and as rightly contended by the learned counsel for the appellant, the policy came into force only on 15.05.2010, whereas, the accident happened on 13.05.2010 itself. Therefore, it is clear that as on the date of the accident i.e., on 13.05.2010, there was no policy in force in order to claim compensation from the appellant/Insurance Company. However, in the impugned award, the Tribunal, by non-application of mind to the insurance policy issued by the appellant/Insurance Company has erroneously passed an award against the appellant/Insurance Company also. Hence, the impugned common award dated 05.11.2014, passed by the Tribunal in M.C.O.P.Nos.1575 and 1576 of 2013 against the appellant has to be necessarily quashed.

5. Accordingly, the impugned common award dated 05.11.2014 passed by the Tribunal in M.C.O.P.Nos.1575 and 1576 of 2013 is quashed as against the appellant alone and the appeals are allowed. However, insofar as the common award passed against the 2nd respondent/owner of the vehicle is concerned, the same is confirmed by this Court. Liberty is also granted to the



claimant, if aggrieved by the finding of the Tribunal as against the 4th respondent in this appeal to file an appeal seeking for compensation from the 4th respondent, who is the insurer for Auto, in which, the respective claimants were travelling as passengers. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssn

To

1. The Motor Accident Claims Tribunal,
Special Sub-Judge, Krishnagiri.
2. The Section Officer,
Vernacular Section,
Madras High Court.

+2ccs to Mr.Prabakaran, Advocate, S.R.No.26892,26893

C.M.A.Nos.1300 and 1301 of 2016
and
M.P.Nos.9976 and 9977 of 2016

MG (CO)
PM/08/10/2021