



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:10.03.2021

CORAM:

THE HON'BLE MR.JUSTICE T.RAVINDRAN

S.A.No.1607 of 2008  
and  
M.P.No.1 of 2008  
&  
M.P.Nos.1 & 2 of 2010

Indo Arya Central Transport Ltd,  
Door No.49, Broadway,  
II Floor, Chennai - 600 108. ... Appellant/Defendant

Vs.

1. M/s. T.T.K.Pharma Ltd,  
rep by Power Agent/Subrogee,  
The Oriental Insurance Company Ltd,  
Having Office at Door No.8,  
Old Trunk road, Pallavaram,  
Chennai - 600 043.
2. The Oriental Insurance Company Ltd,  
Divisional Office at "Rosy Towers",  
Door No.7, Uthamar Gandhi Salai,  
Nungambakkam, Chennai - 600 034. ... Respondents/Plaintiffs

Prayer: Second Appeal filed under Section 100 of C.P.C., against the judgment and decree dated 26.09.2007 made in A.S.No.484 of 2006 on the file of the Fast Track Court Judge-II, City Civil Court, Chennai, confirming the judgment and decree dated 22.03.2006 made in O.S.No.3898 of 2001 on the file of the XV Assistant Judge, City Civil Court, Chennai.

For Appellant : Mr.P.K.Murali  
For Respondent : No appearance  
(Served)

J U D G M E N T

Challenge in this second appeal is made to the judgment and decree dated 26.09.2007 passed in A.S.No.484 of 2006 on the file of the Additional District Judge, Fast Track Court-II, Chennai, confirming the judgment and decree dated 22.03.2006 passed in O.S.No.3898 of 2001 on the file of the XV Assistant Judge, City Civil Court, Chennai.





defendant that the consignment was entrusted to it properly. Therefore the defendant as the carrier has the bounden duty to deliver the goods under proper care. As rightly held by the Courts below, no acceptable and reliable materials had been placed by the defendant to show that they had taken all the care and protection in carrying the consignment safely to the destination and from the letter issued by the defendant dated 08.09.1998 marked as Ex.A5, it is found that the consignment had not been delivered by the defendant. Accordingly the statutory notice under section 10 of the Carriers Act had been issued by the first plaintiff and pursuant to the Insurance Policy, the insurer, the second plaintiff having settle the claim of the first plaintiff on the basis of the Letter of Subrogation, the plaintiffs have laid the suit.

10. As rightly held by the Courts below, the defendant having admitted the non-delivery of the suit consignment under Ex.A5, it cannot take the plea that the same had been issued only to enable the first plaintiff to get the reimbursement from the second plaintiff under the Insurance Policy. When from the Letter of Subrogation and Special Power of Attorney issued by the first plaintiff to the second plaintiff marked as Ex.A7 and when the second plaintiff had settled the claim of the first plaintiff based on the Insurance Policy, it is found that as held by the Courts below, the plaintiffs are entitled to maintain the suit.

11. Considering the reasonings and conclusions of the Courts below for upholding the plaintiffs' case, they being founded on the proper appreciation of the materials available on record, both on factual matrix as well as on the point of law and when they are not shown to be in any manner, perverse, illogical and irrational, I do not find any valid reason to interfere with the same. Resultantly, no substantial question of law is found to be involved in this second appeal.

12. In conclusion, the judgment and decree dated 26.09.2007 passed in A.S.No.484 of 2006 on the file of the Additional District Judge, Fast Track Court-II, Chennai, confirming the judgment and decree dated 22.03.2006 passed in O.S.No.3898 of 2001 on the file of the XV Assistant Judge, City Civil Court, Chennai are confirmed. Resultantly, the second appeal is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

mfa



To

1. The Additional District Judge,  
Fast Track Court-II,  
Chennai.

2. The XV Assistant Judge,  
City Civil Court,  
Chennai.

Copy to

The Section Officer,  
VR Section,  
High Court,  
Chennai.

S.A.No.1607 of 2008  
and  
M.P.No.1 of 2008  
&  
M.P.Nos.1 & 2 of 2010

EV(CO)  
GN(27/09/2021)