



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKA RAMAN

C.M.A.No.2679 of 2015

C.Amsaveni

...Appellant/Petitioner

Vs.

1. K.Murugan

2. The Oriental Insurance Company Limited,
Branch Office,
Namakkal,
Salem District

...Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 29.11.2013 in M.C.O.P.No. 754 of 1997, on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Krishnagiri.

For Appellant : M/s.Mukund R.Pandiyan

For R1 : No appearance

For R2 : Mr.S.Arunkumar

J U D G M E N T

The claim petitioner is the appellant herein.

2. The claim petitioner who sustained injury in a road accident has filed the above M.C.O.P under Section 166 of the Motor Vehicle's Act, claiming compensation on the ground that due to the rash and negligence driving of the driver of the first respondent.

3. Before the Tribunal, the second respondent/Insurance Company has filed a counter statement, denying the insurance policy coverage. The Tribunal after trial, has held that the accident has taken place due to the rash and negligence driving of the driver of the first respondent. However, relying upon Exs.R1 to R4 has held that the offending vehicle is not insured with the second respondent/Insurance Company and accordingly, exonerated the Insurance Company from liability and passed an award against the owner of the vehicle. Aggrieved against the



said exoneration of the Insurance Company from liability, the claim petitioner has preferred this appeal.

4. Heard both sides.

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5. The learned counsel for the claim petitioner has drawn my attention to Ex.P4 Motor Vehicle Inspector Report, wherein, there is a reference that the vehicle is insured with the Oriental Insurance Company and also drawn my attention to the evidence of P.W.3, Junior Assistant from R.T.O office.

6. Per contra, the learned counsel for the Insurance Company has drawn my attention to the letter Ex.R3 of the Namakkal branch, wherein, the vehicle is alleged to have been insured with the Insurance Company and also Ex.R4 wherein, the very same accident, another claim petition was filed, wherein the Insurance Company was exonerated for want of insurance.

7. After taking note of the arguments of both sides, I find that there is a reference in Ex.P4 that the vehicle is insured by the Oriental Insurance Company without mentioning the policy number taken and such a certified copy ought not to have been marked before the trial Court and hence I have no hesitation to reject the said Ex.P4 and further P.W.3 is not a competent person to depose on support of Ex.P4. As rightly pointed out by the learned counsel for the respondent, notice has been sent to the owner of the vehicle and in respect of very same accident, another claim petition seems to have been filed in M.C.O.P.No.643/1997 on the file of the learned Additional District Judge No.III, Krishnagiri District, having a similar finding viz., holding that there is no insurance policy coverage for the very same offending vehicle has been confirmed and hence I find that in view of Exs.R1 to R4 and in the absence of any evidentiary value for Ex.P4, the trial Court has rightly come to the conclusion that the Insurance Company is not liable and hence the said finding does not warrant any interference.

8. Hence, this Civil Miscellaneous Appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional District Judge,
The Motor Accidents Claims Tribunal,
Krishnagiri.

2. The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mr.Mukund R.Pandian, Advocate, S.R.No.14557

+1cc to Mr.S.Arunkumar, Advocate, S.R.No.13836

C.M.A.No.2679 of 2015

CA[co]
NSK 16/09/2021