



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.NO.480 OF 2018

AND

CMP.NO.4335 OF 2018

The Oriental Insurance Co Ltd.,
The Divisional Office,
No.90-A, Thuraiyur Road,
Namakkal Town

...Appellant/2nd Respondent

Vs

1.P.Mohan

... 1st Respondent/Petitioner

2.K.M.Ramasamy

... 2nd Respondent/1st Respondent

Prayer: The Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree dated 18.08.2014 in M.C.O.P.No.253 of 2010 on the file of the learned Motor Accident Claims Tribunal, Subordinate Court, Namakkal.

For Appellant : Mr.M.B.Gopalan
For R.1 : Mr.Aniruthan
For R.2 : No appearance

JUDGMENT

This appeal has been filed challenging the Award passed by the Motor Accidents Claims Tribunal in MCOP No.253 of 2010 dated 18.08.2014.

2. The only contention raised by the appellant Insurance Company in this appeal is that pay and recovery rights to the appellant has not been granted under the impugned award despite the fact that on the date of the accident i.e., on 31.05.2010, the driver of the insured lorry was not possessing a valid and effective driving licence.

3. As seen from the impugned Award, admittedly, the accident happened on 31.05.2010 and the licence of the driver of the insured lorry, which has been marked as Ex.R.2, reveals that the said licence is valid only upto 12.04.2010 and the said fact



has also been observed under the impugned Award by the Tribunal.

4. It is also an admitted fact that only on 03.06.2010, the licence of the driver of the insured vehicle was renewed and therefore, it is very clear that as on the date of the accident i.e., 31.05.2010, the driver of the insured lorry was not possessing a valid and effective driving licence.

5. Since the second respondent(insured) has violated the policy condition, the appellant ought to have been granted pay and recovery right, but, the Tribunal has erroneously failed to grant the same under the impugned Award.

6. As per the settled law, if there is any policy violation committed by the insured, the Insurance Company is entitled for pay and recovery rights. The Tribunal has failed to take into consideration the settled law. Therefore, this appeal is allowed and pay and recovery rights is granted to the appellant Insurance Company, who shall pay the determined compensation amount by the Tribunal to the first respondent/claimant and on such payment, the appellant Insurance Company is granted the right to recover the same from the second respondent by adopting the procedure established under law.

7. With the aforesaid observations, the civil miscellaneous appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

sr/rgi

To

1. The Motor Accidents Claims Tribunal,
Subordinate Court, Namakkal.
2. The Section Officer,
V.R.Section, High Court, Madras - 104.

+1cc to Mr.Aniruthan, Advocate, S.R.No. 47325

C.M.A.NO.480 OF 2018
AND CMP.NO.4335 OF 2018

GP(CO)
CS/22/10/2021