IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2021

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.56 of 2014 &
MP.No.1 of 2014

Manager,
Oriental Insurance Company Limited,
No.173, J.N.Road, Oil Mill,
Tiruvallur – 602 001. ...Appellant/2nd Respondent

Vs

1.Iyyappan ...1st Respondent/Petitioner
2.Velu ...2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act against the award and decree dated 17.02.2012 passed in MCOP.No.561 of 2009 on the file of the Motor Accident Claims Tribunal (Sub Court), Tiruvallore.

For Appellant : Mr.R.Sivakumar

For Respondents : No appearance

JUDGMENT

This civil miscellaneous appeal has been filed by the Insurance Company challenging the impugned award dated 17.02.2012 passed by the Motor Accident Claims Tribunal (Sub Court, Tiruvallur) in MCOP.No.561 of 2009.

2. Heard Mr.R.Sivakumar, learned counsel for the Appellant. The respondents have been duly served and their names have also been printed in the cause list today. However, there is no representation on their side as they have neither engaged a counsel nor represented by themselves.

3. The Appellant Insurance Company has challenged its liability to pay compensation on the ground that on the date of the accident i.e., on 19.09.2008, there was no valid and effective insurance policy as the insurance policy was cancelled by the Appellant as early as on 06.05.2008.

4. Before the Tribunal, the Appellant Insurance Company has filed five documents which were marked as Ex.R1 to Ex.R5 and one witness was examined on their side namely Jayanthivendhan, their official as RW1.

5. As seen from the exhibits marked on the side of the Appellant before the Tribunal, the Appellant has sent a notice dated 06.05.2008 to the second respondent who is the insured intimating him about the cancellation of the insurance policy on the ground that the cheque issued by him towards the premium amount has been returned dishonoured for the reason "Insufficient Fund". The Appellant Insurance Company has also intimated to the Regional Transport Office on 06.05.2008 about the cancellation of the Insurance Policy, as seen from Ex.R4. The Appellant Insurance Company has also issued section 64 VB notice which has been marked as Ex.R5 before the Tribunal. Ex.R2, Ex.R3, Ex.R4 & Ex.R5 clearly confirm that the policy issued to the second respondent by the Appellant insurance company stood cancelled on 06.05.2008 itself. Since the accident happened only on 19.09.2008, the Appellant Insurance Company is not liable to pay compensation to the first respondent/claimant. However, under the impugned award, without proper appreciation of evidence available on record, the Tribunal has passed the award holding the Appellant Insurance Company liable to pay the compensation.

6. For the foregoing reasons, the impugned award dated 17.02.2021 passed by the Motor Accident Claims Tribunal, Sub court, Tiruvallur against the Appellant Insurance Company has to be set aside. Accordingly, the impugned Award dated 17.02.2012 passed by the Tribunal in MCOP.No.561 of 2009 against the Appellant is hereby set aside and the Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

7.It is represented by the learned counsel for the Appellant Insurance Company that the entire award amount has already been deposited by the Appellant Insurance Company before the

Tribunal. Since the entire award amount has already been deposited by the Appellant Insurance company and the impugned award passed by the Tribunal is set aside by this court, the Appellant Insurance Company is permitted to withdraw the amount deposited by them before the Tribunal by filing an appropriate application.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

1. The Subordinate Court,
   Tiruvallur.

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

+1cc to M/s.R.Sivakumar, Advocate Sr.49284

C.M.A.No.56 of 2014

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srg 07/02/2022