IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

C.M.A.No.1047 of 2012

A.Duraivelu ... Appellant

vs.

1.V.Annadurai

2.ICICI Lombard General Insurance Co. Ltd.,
Chhotabhai Centre,
No.140, Nungambakkam High Road,
Chennai-600 034. ... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree dated 06.02.2012 made in M.A.C.T.O.P.No.3511 of 2008 on the file of the IV Judge, Motor Accidents Claims Tribunal (Small Causes Court), Chennai.

For Appellant : Mr.C.Munnusamy
for M/s.C and K Law Firm

For Respondents : Not ready in notice [R1]
Ms.R.Sreevidya [R2]

JUDGMENT

The above appeal is filed by the claimant seeking enhancement of the compensation granted by the Motor Accidents Claims Tribunal, IV Judge, Small Causes Court, Chennai in M.C.O.P.No.3511 of 2008 and also to set aside the award, inasmuch as it exonerates the Insurance Company from paying the compensation.

2. The Insurance Company had been exonerated on the ground that, on the date of accident, there was no valid policy cover for the lorry, involved in the accident and the said lorry belongs to the 1st respondent. The Insurance Company had submitted proof to show that the premium amount paid by way of cheque, had been dishonoured and the same has been duly intimated to the 1st respondent/insured as well as the jurisdictional Regional Transport Office and therefore, there was no valid insurance cover on the date of accident.

3. The claimant challenges the said finding by contending that the Tribunal could have directed the 2nd respondent/Insurance Company to pay the compensation and thereafter recover the same from the 1st respondent.

4. Arguments on these lines has been advanced by the counsel on either side.

5. The learned counsel for the appellant had relied upon the judgment of this Court reported in ***2010 ACJ 1809*** in the case of ***New India Insurance Co. Ltd., vs. V.Bommi and others*** and stated that in the said judgment, a Division Bench of this Court had directed the Insurance Company to pay the compensation and thereafter recover the same from the insured.

6. Per contra, Ms.Sree Vidhya, the learned counsel appearing on behalf of the Insurance Company would rely upon the unreported judgment of this Court in ***C.M.A.No.1130 of 2006*** dated 04.08.2020 in the case of ***United India Insurance Co. Ltd., vs. Murugammal and others*** and also the judgment of this Court in ***C.M.A.Nos.2994 of 2019 and 1500 of 2021,*** dated 27.07.2022 in the case of ***United India Insurance Company Limited and Nagammal and others*** wherein the following judgments were referred to :

1) *Deddappa and Others -vs- Branch Manager, National Insurance Company Ltd, (2008) 2 SCC 595*
2) *New India Assurance Company Ltd Vs. V.Bommi and four others, (2009) 2 TNMAC 86 (DB);* and

3) Wilson -vs- Vasantha Kumar and Others, 2015 ACJ 1524.

4) United India Insurance Co.Ltd., -vs- Laxmamma and Others (2012) 5 SCC 234.

7. That apart, in the case of ***New India Assurance Company Ltd Vs. V.Bommi and four others (supra),*** wherein, this Court had considered a similar issue where intimation of the cancellation of policy had been given to the insured, but not to the registered Authorities. While considering the above issue and drawing strength from the judgments reported in the case of ***Deddappa and Others -vs- Branch Manager, National Insurance Company Ltd*** (supra), and a judgment of a Division Bench of this Court reported in ***2009 (2) TN MAC 86 [New India Assurance Company Ltd Vs. V.Bommi and four others]***, wherein the Court held that even if the intimation had been given to the Insurance Company, but not to the registered authority, then the Insurance Company would continue to be liable, considering the language of Sections 147(5) and 149(1) of the Motor Vehicles Act. However, in the instant case, a perusal of Ex.R3 would clearly show that not only was the Regional Transport Officer intimated, but also the insurer. The Tribunal below has also taken into consideration the above

factors and exonerated the Insurance Company.

8. I see no reason to disturb the above findings of the Tribunal, especially in the light of the judgments referred above. That apart, in this appeal, the appellant has not made out any grounds for enhancing the compensation, since the compensation granted appears to be a reasonable one.

9. Consequently, the Civil Miscellaneous Appeal is dismissed and the Judgment and Decree dated 06.02.2012 made in M.A.C.T.O.P.No.3511 of 2008 on the file of the IV Judge, Motor Accidents Claims Tribunal (Small Causes Court), Chennai, is confirmed. No costs.

31.10.2022

Index : Yes/No
Speaking / Non-speaking order
ssn

P.T.ASHA, J.,

ssn

To:

1. The IV Judge,
   Motor Accidents Claims Tribunal
   Small Causes Court,
   Chennai.

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

C.M.A.No.1047 of 2012

31.10.2022