



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CMA.No.366 of 2020
and
CMP.No.3422 of 2020

The New India Assurance Company Limited,
No.45, Moore Street,
3rd Party Cell, Chennai - 1 ...Appellant/2nd Respondent

Vs.

1.Raju ...1st Respondent/1st Respondent

2.Sathya ...2nd Respondent/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the MV Act, 1988, against the judgment and decree passed in M.C.O.P.No.561 of 2014 dated 30.09.2019 on the file of the Motor Accidents Claims Tribunal / II Additional District Court, Poonamallee.

For Appellant : Ms.C.Sangamithirai

For Respondents: Mr.K.Varadhakamaraj for R2

J U D G M E N T

The only ground on which, the Insurance Company challenges the award is that the Tribunal ought not to have granted an order for pay and recovery when the policy was cancelled by the Insurance Company on the ground that the cheque issued for the premium was dishonoured even on 21.04.2014, prior to the accident.

2.It is not in dispute that the cheque given by the 1st respondent was dishonoured and the Insurance Company had informed the 1st respondent as well as the RTO of the cancellation of the policy by the registered letters dated 21.04.2014. Once the said cancellation is admitted, the Tribunal ought not to have directed the Insurance Company to pay the



compensatin and recover the same from the owner. The question of pay and recovery will arise only if there is a policy and there is violation of any of the policy conditions.

3.If the very policy has been cancelled, there is no question of Insurance Company being directed to pay with liberty to recover the amount from the owner of the vehicle. Hence, that portion of the award of the Tribunal is liable to be set aside and it is accordingly, set aside. This civil miscellaneous appeal is therefore, partly allowed. The Insurance Company is exonerated from the liability to pay and the liability to satisfy the entire award will be on the 1st respondent / owner of the vehicle. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

kkn

To:

The Motor Accident Claims Tribunal,
II-Additional District Judge,
Poonamallee.

Copy To

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

+1cc to Mrs.C.Sangamithira, Advocate, S.R.No.3274

+1cc to Mr.K.Varadha Kamaraj, Advocate, S.R.No.3314

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AK-II(CO)
RGA(08/04/2022)