



C.M.A.No.3426 of 2014

WEB COPY IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 17.11.2022

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.3426 of 2014

and

M.P.No.1 of 2014

National Insurance Co. Ltd.
Branch Office -I
Thandai Periyar Market Complex
P.B.NO.15, Salem.

... Appellant

Vs.

1. Govindan
2. Babu Kumar
3. Paramasivan
4. Tamil Nadu State Transport
Corporation Limited,
rep. by its Managing Director
having office at Ramakrishna Road
Hasthampatty, Salem - 7

... Respondents



C.M.A.No.3426 of 2014

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act against the Judgment and Decree dated 10.10.2011 made in M.C.O.P.No.158 of 2006 on the file of the learned Principal Subordinate Judge, Motor Accidents Claims Tribunal, Salem.

For Appellant : Ms.R.Sree Vidhya

For Respondents : M/s.S.Valarmathi for R1

JUDGMENT

The above Civil Miscellaneous Appeal is filed by the 2nd respondent/Insurance Company challenging the Award passed by the learned Principal Subordinate Judge, Motor Accidents Claims Tribunal, Salem, in M.C.O.P.No.158 of 2006, fastening the liability to pay compensation upon the 2nd respondent/Insurance Company, though the Policy under which the offending vehicle is insured was an Act only policy.



C.M.A.No.3426 of 2014

WEB COPY 2.To appreciate the grievance of the appellant/Insurance Company, it is necessary to briefly touch upon the facts which has given rise to the claim petition as follows:

The 1st respondent had filed the above claim seeking compensation of a sum of Rs.5lakhs for the injuries sustained by him in a road accident. It is the case of the 1st respondent that he was proceeding in the lorry owned by him, bearing Registration No.TN 28 6327 on 16.09.2005 at about 03.45p.m. to produce it before the Regional Transport Officer, Salem, for obtaining Fitness Certificate. It is his case that after completing the verification by the Regional Transport Officer, Salem, he was returning in his lorry and the driver who was on wheels at the time had driven the vehicle in a slow and cautious manner. When the lorry reached the bypass road, a bus bearing Registration No.TN 27N 1499 belonging to the 4th respondent/Transport Corporation driven by its driver in a rash and negligent manner dashed against the lorry as a result of which, both the



C.M.A.No.3426 of 2014

drivers of the lorry and the bus had sustained injuries. The accident had occurred only on account of the negligence on the part of the driver of the bus.

3.The 1st respondent had filed the claim petition against the Insurance Company and the Tamil Nadu State Transport Corporation. The appellant/Insurance Company had filed a counter *inter alia* contending that they are not liable to compensate the 1st respondent since the insurance cover was only an act only policy which did not cover the owner of the vehicle.

4.The Tribunal however took the view that there was no law which set out that the owner could not travel in his own vehicle and therefore, the Insurance Company has to compensate the petitioner, unless they are able to show that there is a violation of the terms of the Insurance Policy. Challenging the same, the appellant/Insurance Company is before this Court.



C.M.A.No.3426 of 2014

WEB COPY 5. Heard the learned counsels appearing on either side and perused the papers.

6. The Insurance Company had filed an application in C.M.P.No.17950 of 2022 for receiving an additional document, namely, the Policy No.650302/31/04/6700009904 as Ex.R.1 in the above appeal. The above petition was allowed as the respondents have no objection to the same and the Policy has been marked as Ex.R1. A perusal of the Policy would indicate that the same is a Goods Carrying vehicle policy and act liability only. The policy only covers third party liability. The petitioner being the owner has been expressly omitted from the cover. Therefore, the Award of the Tribunal has to be necessarily set aside and it is accordingly set aside.



C.M.A.No.3426 of 2014

WEB COPY This Civil Miscellaneous Appeal is allowed and the appellant/Insurance Company is exonerated from its liability. No costs. Consequently, connected Miscellaneous Petition is closed.

17.11.2022

Index : Yes/No
Internet : Yes/No
Speaking order / Non speaking order
mps

To

The Principal Subordinate Judge,
Motor Accidents Claims Tribunal,
Salem.



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C.M.A.No.3426 of 2014

P.T. ASHA, J,

mps

C.M.A.No.3426 of 2014
and
M.P.No.1 of 2014

17.11.2022

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