BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.03.2022**

CORAM:
THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN
C.M.A(MD).No.1365 of 2011
and
M.P(MD).No.1 of 2011

The Divisional Manager,
The United India Insurance Company Limited,
Goodshed Street,
Madurai. ...Appellant/3rd respondent

Vs.

1.Muthumani ...1st respondent/petitioner
2.P.Monanmani ... 2nd respondent / 1st respondent
3.R.Subramani ...3rd Respondent/2nd respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 01.04.2011, in M.C.O.P.No.1650 of 2008 on the file of the Motor Accidents Claims Tribunal(IV Additional Sub Judge), Madurai.

For Appellant : Mr.G.Prabhu Rajadurai

For R1 : Mr.R.Pon Karthikeyan

JUDGMENT

The Insurance Company is the appellant herein. This Civil Miscellaneous Appeal is filed by the United India Insurance Company Limited, challenging, the judgment and decree passed in MCOP.No.1650 of 2008, on the file of the Motor Accidents Claims Tribunal, (IV Additional Sub Judge) Madurai.

2. The brief case of the first respondent/claimants, is as follows:

On 25.01.2007, at about 11.30 hours, near Silaiman at Thirubuvanam road, while the first respondent/claimant was driving the second respondent's lorry bearing Registration No.TN-04-A-6889, the traffic police suddenly stopped the lorry and demanded the licence. While the first respondent/claimant was getting down from the lorry, he was hit by the iron rod and fell down from the lorry and met with the accident and he sustained multiple injuries. Hence, the first respondent/claimant claims compensation for a sum of Rs.4,00,000/- (Rupees Four Lakhs only).

3. The appellant/Insurance Company filed counter statement, wherein it is stated that there is no employer - employee relationship between the first respondent/claimant and the second respondent/owner of the vehicle and also stated that the policy of insurance is only a third party Act policy and not a full coverage policy and in particular, additional premium is not paid for workmen.

4. The Tribunal has awarded a sum of Rs.1,12,878/- (Rupees One Lakh Twelve Thousand Eight Hundred and Seventy Eight only) with interest at 7.5 % per annum. Challenging the same, the Insurance Company has preferred this appeal on the ground that relationship of the employer employee was not established in the manner known to law and there is no policy coverage for the workmen to claim compensation.

5. Considering the fact that the policy is a Act only policy and premium was not paid under the Workmen Compensation Act and in view of admitted positions of facts as could be seen the records, the insurance company is exonerated from its liability and hence, the award passed by the Tribunal is set aside. The Insurance Company shall pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) towards 'No Fault Liability'.

6.In the result, this Civil Miscellaneous Appeal is partly allowed to the extent indicated above. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

08/06/2022

Sub Assistant Registrar(CS)

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To

1.The Motor Accidents Claims Tribunal(IV Additional Sub Judge),
Madurai.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-15576[F] dated 31/03/2022)

+1 CC to M/s.R.PONKARTHIKEYAN, Advocate (SR-15647[F] dated 31/03/2022)

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