



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.03.2022**

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A (MD) No.952 of 2021
and
C.M.P (MD) No.9064 of 2021

Iffco-Tokio General Insurance Company Limited,
No.375-A, Jeyam Building, First Floor,
Madurai Main Road,
Theni Town,
through its Branch Manager. :Appellant/Second respondent

.vs.

1.Sivaraja : Ist Respondent/Petitioner
2.Senthil
3.Chinnaraj :Respondent No.2 and 3/Respondent
Nos.1 and 2

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the award and decree passed in M.C.O.P.No.13 of 2018, dated 31.03.2021, on the file of the Motor Accidents Claims Tribunal, Theni/The Chief Judicial Magistrate Court, Theni, insofar as the liability is concerned.

For Appellant :Mr.V.Sakthivel

For Respondent-1 :Mr.S.Palpandi

For Respondents :No appearance
2 and 3

JUDGMENT

The Insurance Company is the appellant herein challenging the award passed by the Chief Judicial Magistrate, Theni made in M.C.O.P.No.13 of 2018, on the ground of liability.



2.The first respondent herein filed the claim petition seeking compensation for the injury sustained in the above Road Traffic Accident on 21.08.2017 at about 5.15 p.m. The appellant/Insurance Company, the third respondent before the Tribunal, filed a written statement stating that Ex.R1-Insurance Policy for the offending vehicle TN 48A 7545 came into force only at 9.00 p.m., on 21.8.2017 at 5.15 p.m. In short, the premium for the policy itself is remitted after the accident and the commencement of the policy is only from 9.00 p.m. on 21.08.2017. Therefore, the appellant/Insurance Company is not liable to pay the compensation.

3.In support of the same, they have filed Ex.R1- policy copy which clearly supports their case. Besides Ex.X1-the Accident Register marked through R.W.1, staff from the Theni Government Medical College Hospital goes to show that the accident had taken place at 5.15 p.m., evening on 21.8.2017.Ex.P3 is the Motor Vehicle Inspector's Report marked through R.W.3 goes to show that the policy came into force only at 9.00 p.m. on that day.

4.In view of the factual position as elicited from the oral and documentary evidence as stated above, I have no hesitation to hold that at the time of accident, there is no policy coverage for the offending vehicle with the third respondent before the Tribunal namely, the appellant/Insurance Company herein and hence the appellant/Insurance Company cannot be fastened with any liability to pay compensation to the claimant.

5.The decision of this Court in the case of (1)**The Branch Manager, National Insurance Company Limited, Dindigul .vs. Vijayalakshmi and five others** reported in 2017(1) **TN MAC 168(DB)** (2)**The Branch Manager, Iffco-Tokio General Insurance Company Limited, T.Nagar, Chennai-17 made in C.M.A(MD)No.655 of 2019** reported in 2021(1) **TN MAC 110** (3)**The National Insurance Company Limited., Motor Third Party Claims, 38 Anna Salai, Madras-2 .Vs. N.Ponnaiyan @ Kolappan and others** reported in 2004(1) **TN MAC 63 (DB)** (4) **The National Insurance Company Limited, Branch Office, Dharmapuri Vattam .vs. Geetha and others** reported in 2004(1) **TN MAC 174(DB)** (5) **P.Raghavan .vs. Gopalakrishnan 2.The National Insurance Company Limited through its Branch Manager, Branch at 175-A, Great Cotton Road, Tuticorin and (5) The New India Assurance Company Limited , Chennai-1 .vs. D.Ramachandra Reddy (died) and others** reported in 2020 (1) **TN MAC 306** are considered and relied upon by the learned counsel for the appellant/Insurance Company.

6.The Civil Miscellaneous Appeal is allowed to the limited extent in respect of the appellant-Insurance Company alone and the appellant is exonerated from its liability to pay compensation to the claimant. It is open to the claimant to proceed against the owner of the vehicle to realize the award amount, in the manner



known to law. No costs. Consequently, connected Miscellaneous
Petition is closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2022

Sub Assistant Registrar

To

1.The Motor Accidents Claims Tribunal, Theni/
The Chief Judicial Magistrate Court,
Theni,

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

+1 CC to M/s.V.SAKTHIVEL, Advocate (SR-10658[F] dated 08/03/2022)

JUDGMENT MADE IN
C.M.A(MD)No.952 of 2021
and
C.M.P (MD)No.9064 of 2021
07.03.2022

VSN

MS/21.03.2022/3P.5C