



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.A. (MD) .No.268 of 2014

and

MP(MD) .No.3 of 2014

M/s. National Insurance Company Limited,
represented by its Branch Manager,
Nagercoil,
Agastheeswaram Taluk,
Nagercoil,
Kanyakumari District.

... Appellant/3rd Respondent

Vs.

1.Monikandan
2.Chelladurai
3.Aseer Bernadshaw
4.Radha Krishnan
5.Bajaj Allinz,
represented by its Branch Manager,
KMA Complex,
1st Floor,
12-G, Ram Nager,
Bye Pass Road,
Madurai-10/

...1st Respondent/Petitioner

... Respondents/
Respondents 1,2,4&5

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, aggrieved by the judgment and decree dated 09.10.2012 passed in M.C.O.P.No.126 of 2007 on the file of the Subordinate Judge / MACT, Padmanabhapuram.

For Appellant : M/s.P.Malini
For R1 & R4 : No appearance

For R5 : Mr.J.S.Murali

R2 Dismissed

R3 Ex-parte



J U D G M E N T

The Civil Miscellaneous Appeal has been filed by the National Insurance Company Limited against the award passed by the Subordinate Judge/Motor Accident Claims Tribunal, Padmanabhapuram in M.C.O.P.No.126 of 2007, dated 09.10.2012, on the ground of liability.

2. M/s.P.Malini, learned counsel appearing for the appellant would contend that the involvement of the vehicle, which was registered with the appellant/Insurance Company is not proved, in the manner known to law.

3. Mr.J.S.Murali, learned counsel appearing for the fifth respondent Insurance Company would submit that the first respondent travelled in the two wheeler owned by the fourth respondent bearing Registration No.TN 74 W 9407, which is insured with the fifth respondent herein.

4. The case of the claim petitioner is that an Ambassador Car bearing Registration No.TNC 6909 came in the opposite direction, driven by the first respondent before the Tribunal, in a rash and negligent manner and dashed against the two wheeler. In the said impact, he has sustained injury. The third respondent herein is the owner of the vehicle, which is insured with the appellant/Insurance Company, the third respondent before the Tribunal.

5. A specific stand was taken by the Insurance Company that the Ambassador Car bearing Registration No.TNC 6909 or TNC 5969 or TN 74 C 6009 is not at all insured with the National Insurance Company at the time of accident.

6. I have perused the evidence of P.W.1. He has specifically deposed that the car involved in the accident is having Registration No.TNC 6909. In the cross examination also, there was a specific suggestion in this regard. It is a categorical stand of P.W.1 that the vehicle involved in the accident in which he has sustained injury is Ambassador car bearing Registration No.TNC 6909. As per Ex.P2, Motor Vehicle Inspector Report, the vehicle bearing Registration No.TN 74 C 3969 was insured with the appellant Insurance Company. Hence, the vehicle which was insured with the appellant Insurance Company is only TN74 C 3969 and not the vehicle as spoken by P.W.1.

7. In the above circumstances, this Court is of the considered view that the appellant Insurance Company is not liable to pay the award amount for the vehicle which is not insured with the appellant. Accordingly, the award passed by the Motor Accident



Claims Tribunal is modified whereby the appellant/Insurance Company is exonerated from liability and the owner of the Car is liable to pay compensation. Accordingly, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

akv

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

The Subordinate Judge /
MACT,
Padmanabhapuram.

Copy to

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1 CC to M/s.J.S.MURALI, Advocate (SR-6366[F] dated 16/02/2022)

+1 CC to M/s.P.MALINI, Advocate (SR-6239[F] dated 15/02/2022)

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RK(10/03/2022) 3P 6C