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CMA No.3588 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.01.2023

PRONOUNCED ON : 28.02.2023

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA No.3588 of 2021

and

CMP No.20992 of 2021

K.Manivannan

... Appellant

Vs.

1. Ravichandran

2. S.Marudhamuthu

T.Kaliyamoorthy (died)

3. The Branch Manager,
The Oriental Insurance Company Limited,
J-1024, 2nd Floor, Sri Vijaya Complex,
Kambam Road,
Theni Town.

4. Pangajam

5. Madhan

... Respondents



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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the decree and judgment dated 09.08.2019 made in MCOP No.176 of 2014 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Nagapattinam.

For Appellant : Mr.R.Saravanakumar

For Respondents : Mr.K.Balu (for R1)

Mr.J.Chandran (for R3)

No appearance (for R2, R4 & R5)

JUDGMENT

The owner of the tractor / 1st respondent before the claims tribunal is the appellant herein challenging the award dated 09.08.2019 made in MCOP No.176 of 2014, whereby the 3rd respondent-Insurance company was exonerated from liability.

2. For the sake of convenience, the parties are hereinafter referred to as per their ranking before the claims tribunal.



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3. Factum of the accident, manner of the accident and the rash and negligent act on the part of the driver of the offending vehicle, are not disputed and hence, the findings of the claims tribunal are confirmed.

4. Before the claims tribunal, the claim petitioner examined himself as PW1 and marked Ex.P1 to Ex.P9. Ex.C2-disability certificate was also marked. On the side of respondents, one Babu was examined as RW1 and Ex.R1 to R3 were marked.

5. As stated supra, the case of the claim petitioner is that while he was travelling in the appellant-tractor by sitting in the mud-guard, he fell down and sustained injury and on the date of the accident, as per Ex.R2-Insurance Policy, the tractor is duly insured with the 3rd respondent-Insurance company herein.

6. In the counter filed before the tribunal, the Insurance Company has categorically stated that the nature of the policy [Ex.R2] is a 'Third Party' policy. It is further stated that the said policy is a 'Kissan Insurance



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Policy for Agriculture' and it does not cover unauthorized person travelling in the tractor and only driver of the tractor is covered.

7. Perused Ex.R2-Insurance Policy and Ex.R3-Terms and conditions of Kissan Policy. Admittedly, it is a 'Third Party' Insurance Policy and premium was paid for the driver only and in the instant case, the injured claimant had travelled along with the driver by sitting on the mud-guard and hence, he has to be treated as 'unauthorized passenger' in the tractor and thereby, it clearly amounts to violation of policy condition. Consequently, the Insurance Company is not liable. On similar line of discussion, the tribunal has exonerated the 3rd respondent-Insurance company. The said finding of the tribunal cannot be termed as unsustainable in law, as the same does not suffer from any illegality or irregularity warranting interference by this Court at this appellate stage.

8. In view of the above discussion, the exoneration of the 3rd respondent-Insurance company and fixing liability on the appellant/owner of the tractor for the reason that the claim petitioner / 1st respondent herein is



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an unauthorized person, is confirmed. No merits in this appeal and hence, the Civil Miscellaneous Appeal is dismissed. No Costs. Consequently, the connected Civil Miscellaneous Petition is closed.

28.02.2023

Index : Yes/No

Neutral Citation : Yes/No.

ars

To

The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Nagapattinam.



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RMT.TEEKAA RAMAN,J.,

ars

Pre-delivery judgment in
CMA No.3588 of 2021

28.02.2023