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W.P.No.25067 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.25067 of 2004
and
W.P.M.P.No.30463 of 2004

United India Insurance Company Limited,
by its Divisional Manager,
Divisional Office, No.2,
Dr.Sankaran Road, Namakkal.

...Petitioner

Vs.

1.Kuppusamy

2.P.Ravi Mani

3.Motor Accident Claims Tribunal,
(FTC-III-Additional District Judge),
Namakkal.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records and quash the award dated 27.01.2003 of the 3rd respondent in MCOP.No.482/2002 (641/99) on the file of the 3rd respondent and to direct the 3rd respondent to dismiss the claim petition.



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For Petitioner : Mr.N.Kesava raj
For Mr.D.Baskar

For R1 & R2 : No appearance

For R3 : Tribunal

ORDER

The writ petition has been instituted in the year 2004, challenging the award passed by the third respondent in M.C.O.P.No.482 of 2002.

2. Notice was served to all the respondents and none appeared, representing the case of the respondents.

3. The learned counsel for the petitioner states that on 27.01.2003, the third respondent passed an award, directing the petitioner and the 2nd respondent to jointly and severally pay Rs.40,000/- as compensation with interest at the rate of 9% per annum from the date of petition till realisation.

4. The petitioner states that it was a suspicious accident with reference to the involvement of the Vehicle Bearing Regn.No.TN-28-2370. The petitioner through their agency, conducted an investigation and also lodged a police complaint on 11.02.2004 before the CB-CID Chennai. From the report of the investigator, the petitioner Insurance Company came to



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know that the claim of the 1st respondent is false and the Vehicle Bearing Regn.No.TN-28-2370 was not at all involved in the accident. It must be the handi-work of the 1st respondent and Subramani, who in collusion with the other agencies have manipulated the records with an ill-motive and to enrich themselves. The petitioner has narrated the consequences of registration of a case on 06.07.1999 at about 10.00 a.m based on the complaint given by Mr.N.Subramani, who is the 1st respondent in W.P.No.25066 of 2004.

5. With reference to the maintainability, the learned counsel for the petitioner relied on the judgment of the Hon'ble Supreme Court of India in the case of *United India Insurance Co., Ltd., Vs. Rajendra Singh and others*, reported in *(2000) 3 SCC 581*, wherein the Apex Court held that the power under Article 226 of the Constitution of India is to be exercised to correct an error caused by fraud, if any, available.

6. Though notice was served to the respondents 1 and 2, they have not chosen to appear before this Court to contest the writ petition.



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7. In view of the fact that the petitioner conducted investigation and found that the vehicle had not been involved in an accident, the present writ petition is to be considered.

8. Accordingly, the Award dated 27.01.2003 passed by the third respondent in M.C.O.P.No.482 of 2002 is quashed and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

27.04.2023
(2/2)

Index : Yes
Speaking order
Neutral Citation: Yes
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To
The FTC-III-Additional District Judge,
Motor Accident Claims Tribunal,
Namakkal.



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S.M.SUBRAMANIAM, J.

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