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C.M.A.No.2647 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **06.11.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

C.M.A.No.2647 of 2016

and

C.M.P.No.18917 of 2016

United India Insurance Co. Ltd.,
Saligramam, Chennai – 93.

... Appellant/2nd Respondent

Vs.

1.Ravi

... 1st Respondent / Petitioner

2.K.Selvaraj

... 2nd Respondent / 1st Respondent

3.Kannan

4.New India Assurance Co. Ltd.,
Branch Office,
Chennai – 600 021.

... Respondents 3 & 4

[R3 & R4 impleaded vide order dated 06.11.2023
made in C.M.P.No.3176 of 2017 in C.M.A.No.2647 of 2016]

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 10.09.2015 made in



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M.C.O.P.No.1066 of 2012 on the file of the Motor Accidents Claims Tribunal, II Additional District Judge, Poonamallee.

For Appellants : Mr.S.Arun Kumar
For Respondents : No appearance [R1]
Given up vide order dated
05.10.2021 [R3]
Ms.A.Salomi
for M/s.Ramesh Babu [R4]

JUDGEMENT

Aggrieved by the award passed by the Motor Accidents Claims Tribunal, II Additional District Judge, Poonamallee, the appellant/Insurance Company has preferred the present appeal.

2. The claimant has filed the claim petition stating that, on 30.04.2012 at about 10.30 p.m., after completing his work, when he was riding his two wheeler bearing Reg.No.TN 22 X 777, from Anna Nagar to Thirumullaivoil from East to West direction, at that time, near Ambattur Telephone Exchange, a lorry bearing Reg.No.TN 03 6327 owned by the second respondent, insured with the appellant/Insurance Company, driven by its



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driver in a rash and negligent manner and dashed against him and thereby, the claimant sustained grievous injuries. Thereafter, the claimant filed a claim petition claiming compensation of Rs.2,00,000/- before the Motor Accidents Claims Tribunal, II Additional District Judge, Poonamallee in M.C.O.P. No.1066 of 2012.

3. Before the Tribunal, the claimant examined himself as P.W.1 and examined the doctor as P.W.2 and marked 10 documents viz., Ex.P.1 to Ex.P.10. No witnesses were examined nor any documents were marked on the side of the respondents. The Tribunal, considering the pleadings, oral and documentary evidence, allowed the petition in part and awarded a sum of Rs.1,46,100/- as compensation to the claimant fastening the entire liability as against the appellant/Insurance Company. Questioning the liability, the appellant/Insurance Company filed the present appeal.

4. The learned counsel appearing for the appellant submitted that the first respondent/claimant's vehicle was insured with the appellant/Insurance



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Company and the offending lorry was owned by the third respondent and not by the second respondent and insured with the fourth respondent/New India Assurance Co. Ltd. and not with the appellant herein. However, as the first respondent/claimant failed to implead actual owner and Insurance Company of the offending vehicle as parties in the claim petition, thereby based on the materials furnished by the first respondent, the Tribunal has passed an award as against the appellant/Insurance Company, even though the appellant/Insurance Company is not liable to pay any compensation to the first respondent/claimant, which is perverse and the same is liable to be interfered with. Accordingly, he prays that this Court may set aside the award and remand the matter to the Tribunal for fresh adjudication.

5. The learned counsel appearing for the fourth respondent did not disputed the facts submitted by the learned counsel appearing for the appellant/Insurance and has no serious objection for remitting the matter to the Tribunal for fresh adjudication.



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6. In view of the above, this Court, without going into the merits of the case, sets aside the impugned award passed by the Motor Accidents Claims Tribunal, II Additional District Judge, Poonamallee in M.C.O.P.No.1066 of 2012 dated 10.09.2015 and remands the matter to the Tribunal to decide the case on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this judgment, after providing opportunities to all the respective parties.

7. With the above direction, the civil miscellaneous appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

06.11.2023
(2/2)

Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes / No
sp

To

1.The Motor Accidents Claims Tribunal, II Additional District Judge, Poonamallee.

2.The Section Officer, V.R.Section, High Court, Madras.

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C.M.A.No.2647 of 2016

C.M.P.No.3176 of 2017

in

C.M.A.No.2647 of 2016

M.DHANDAPANI, J.

The present civil miscellaneous petition filed seeking to implead the proposed respondents 3 and 4 as respondents 3 and 4 in C.M.A.No.2647 of 2016 against M.C.O.P.No.1066 of 2012 on the file of the Motor Accidents Claims Tribunal, II Additional District Judge, Poonamallee, is ordered as prayed for.

06.11.2023

sp

(1/2)

Note: Registry is directed to carry out the necessary amendment in the cause title.