IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on :24.01.2023

Judgment Pronounced on :14.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.3425 of 2014
and
M.P.No.1 of 2014

Bajaj Allianz General Insurance Company Limited,
rep.by its Divisional Manager,
No.C31/32, 1st Floor, Conaught Place,
Delhi - 1 ... Appellant

vs.

1.Minor Yuvaraj
rep.by his father and natural guardian Kupera Selvam
Thathampettai Main Road,
Chidambaram Taluk

2.Mr.Sivaraj ... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 01.07.2014 in M.C.O.P.No.270 of 2011 on the file of Motor Accidents Claims Tribunal, (Subordinate Judge), Chidambaram.

For Appellant : Mr.J.Michael Visuvasam

For R1 : Mr.A.Murugan
For R2 : No appearance

JUDGMENT

The Insurance Company is the appellant herein, challenging the award on the ground of liability and quantum.

2. The first respondent Yuvaraj sustained injuries in the road accident and he has filed the above claim petition for the injuries.

3. The appellant who is the second respondent before the Tribunal filed the counter alleging that the vehicle is not insured with them and the policy document filed along with the claim petition, is fake.

4. During the trial, the father of the injured was examined as P.W.1 and Doctor was examined as P.W.2. Ex.P1 to P9 were marked. Ex.C1 is the X-ray. On behalf of the Insurance Company, the staff is examined as R.W.1 and Ex.R1 and R2 were marked.

5. The main contention putforth before the Tribunal was that Ex.P7 the copy of the policy marked on behalf of the claim petitioner is fake. The policy copy produced under Ex.P7, covers the date of the accident namely 10.04.2011.

6. On perusal of Ex.R1-policy copy the Insurance is covered only upto 2009 though the claim petitioner claims that Ex.P7 is true and genuine and no one in connection with the policy, were examined. In the absence of any positive evidence in support of Ex.P7 in view of the substantiate evidence of R.W.1 coupled with Ex.R1 and R2, this Court finds that based upon Ex.R1, the insurance coverage is till the year 2009.

7. Bare perusal of Ex.P7 (marked by the claim petitioner) makes the thing black and white and hence, I have no hesitation to hold that Ex.P7 cannot be relied upon and the same is inadmissible in evidence. On the contrary, Ex.R1 stands accepted for a reasons stated supra and it is an Act Only policy upto the year 2009 only. Date of the accident is 10.04.2011 and hence, on the date of the accident, there is no policy coverage and hence, for the want of policy coverage, R2 (the Insurance Company appellant herein) cannot be fastened with any liability. Accordingly, the appellant/insurance company is exonerated. It is open to the claim petitioner to proceed against the owner of the vehicle.

8. With these observations, this Civil Miscellaneous Appeal is allowed and the award passed in M.C.O.P.No.270 of 2011 stands modified to the extent indicated above. No costs. Consequently, connected M.P is closed.

14.02.2023

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

To

1.The Motor Accidents Claims Tribunal
(Subordinate Judge), Chidambaram.

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

RMT.TEEKAA RAMAN, J.,

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Judgment in
C.M.A.No.3425 of 2014 and
M.P.No.1 of 2014

14.02.2023