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C.M.A.No.432 of 2023

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.No.432 of 2023

and

C.M.P.No.3624 of 2023

M/s.The New India Assurance Co. Ltd.,
No.594, Obli Towers, 1st Floor, DB Road,
R.S.Puram, Coimbatore – 641 002.

...Appellant

Vs.

1.P.Gurunadhan

2.G.Saraswathi

3.S.Hariharan

4.P.Shankar

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award dated 17.08.2022 made in M.C.O.P.No.1188 of 2018 on the file of the Motor Accident Claims Tribunal, (III Additional District Judge) at Coimbatore.

For Appellant : Ms.A.Salomi

For Respondents : Mr.T.Senthil Kumar for R1 & R2



C.M.A.No.432 of 2023

J U D G M E N T

(Judgment of the Court was made by **R.SUBRAMANIAN, J.**)

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The appeal is by the Insurance Company. Challenge is to the portion of the award where the Tribunal had directed the Insurance Company to pay the award amount with liberty to it to recover the same from the owner of the vehicle. The reasons assigned for ordering such pay and recovery is that the insured had allowed the vehicle to be driven by his minor son, who was not lincensed to drive the motor cycle.

2. The leaned counsel for the Insurance Company / appellant would vehemently contend that since there is a violation of the policy condition and the insured had knowingly allowed his minor son to drive the vehicle, the Tribunal erred in ordering pay and recovery. It should have exonerated the Insurance Company from the liability.

3. We are unable to accept the contention of the learned counsel for the appellant. Section 149(4) of the Motor Vehicles Act specifically provides that the violation of the policy condition except where the policy



C.M.A.No.432 of 2023

has been obtained by suppression of information or a wrong representation, the Insurance Company will have to satisfy the award in favour of the 3rd party and it can be given liberty to recover the award amount from the insured. In view of Section 149(4) of the Motor Vehicles Act, the contention of the learned counsel for the Insurance Company cannot be accepted.

4. Hence, this Civil Miscellaneous Appeal is **dismissed**. No costs.

Consequently, the connected miscellaneous petition is closed.

(R.S.M.,J.) (K.G.T.,J.)
28.02.2023

dsa

Index :No
Internet :Yes
Neutral citation :No
Speaking order

To:-

The III Additional District Judge,
Motor Accident Claims Tribunal,
Coimbatore.

R.SUBRAMANIAN, J.
and

3/4



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C.M.A.No.432 of 2023

K.GOVINDARAJAN THILAKAVADI, J.

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C.M.A.No.432 of 2023

28.02.2023