



C.M.A.No.2533 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

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THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.2533 of 2019
and C.M.P.No.12042 of 2019

United India Insurance Company Ltd.,
Divisional Office,
Salem.

... Appellants

Vs.

1.Kuppan
2.Sivabakkiyam

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against Judgment and Decree dated 10.04.2018 passed in M.C.O.P.No.64 of 2016 on the file of the Motor Accident Claim Tribunal (III Additional District Court), Kallakurichi, Villupuram District.

For Appellant : Mr.J.Chandran

For Respondents
For R1 : Mr.R.Kumaravel

For R2 : Unclaimed



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J U D G M E N T

This Civil Miscellaneous Appeal arises against the award passed by the Motor Accidents Claims Tribunal (III Additional District Judge), Kallakurichi, Villupuram District, in M.C.O.P.No.64 of 2016 on 10.04.2018.

2. It is the case of the appellant that on 22.01.2017 at about 4.30 a.m., the 2nd respondent's Luxury Bus bearing Reg.No.PY-01-CB-0919 driven in a rash and negligent manner and dashed against the 1st respondent's house. When the bus was taken out by heavy weight lifter from the 1st respondent's house, the full house was damaged. The 1st respondent's household things worth Rs.2 lakh and cash Rs.50,000/- were damaged. The damaged house building worth about Rs.13 lakhs. The 1st respondent filed petition seeking compensation for the alleged accident on the ground that the appellant / 1st respondent is the owner of the vehicle and the 2nd respondent was insurer of the vehicle are vicariously liable to pay compensation to the petitioner for a sum of Rs.15,00,000/- with interest and costs. Hence, the appellant / insurance company filed the present appeal.



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3. The learned counsel for the appellant / insurance company submitted that insurance policies of the respondents have not been marked before the Tribunal to prove the contention. Therefore, an opportunity may be given to the insurance company to produce the evidence and agitate the same before the Court below.

4. The learned counsel for the 1st respondent also has no objection to remand back this matter to the Court below for fresh consideration.

5. Heard the learned counsel for the appellant and the learned counsel for the respondent and perused the materials available on record.

6. It is seen from the records that the appellant has failed to produce insurance policies of the respondents, which are vital evidence of this case. Therefore, this Court is inclined to grant an opportunity to the appellant to mark the evidence / insurance policies of the respondents.



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7. In view of the above, this Court is of the view that it would be appropriate to remand the matter back to the Motor Accident Claims Tribunal (III Additional District Judge), Kallakurichi, Villupuram, for reconsideration.

8. Accordingly, the order passed by the Motor Accident Claims Tribunal (III Additional District Judge), Kallakurichi, Villupuram District, in M.C.O.P.No.64 of 2016 dated 10.04.2018 is set aside and the matter is remanded back to the Court below for fresh consideration.

9. Accordingly, this Civil Miscellaneous Appeal is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

26.06.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

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To

The Presiding Officer,
The Motor Accident Claim Tribunal (III Additional District Judge),
Kallakurichi, Villupuram District.



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A.A.NAKKIRAN.J,

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