



W.P(MD)No.10744 of 2015

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10744 of 2015

and

M.P(MD)No.1 of 2015

Maruthairaj

... Petitioner

Vs

1.The Branch Manager,
Indian Bank,
Plot No.44, Venkatesh Nagar,
Valady,
Lalgudi Taluk,
Trichy District.

2.Chola MS General Insurance Company Limited,
Represented by its Authorized Officer,
Tab Complex,
Trichy – 1.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the second respondent to release the estimate of Rs.3,21,232/- which was estimated by the Ashok Leyland Company for repairing the vehicle bearing No. TN-48-AA-4971 Light Diesel Van DOST LS under Policy No. 3379/00927996/000/01, where the insurance covered from 02.09.2014 to 01.09.2015.



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For Petitioner : Mr.N.R.Murugesan

For Respondents : No Appearance for R.1 & R.2

ORDER

Heard the learned counsel appearing for the writ petitioner. There is no representation on the side of the respondents. The insurance company has been served and even though their name is printed in the cause list, they are not chosen to enter appearance.

2. The petitioner is the owner of the vehicle bearing Registration No.TN-48-AA-4971. It was also duly insured with the respondents. When the insurance policy was in force, the vehicle met with an accident. The repair expenses were estimated as Rs.3,21,232/-. The vehicle was repaired and the second respondent was called upon to honour the claim. The second respondent issued impugned communication dated 08.05.2015 repudiating the claim. The said communication reads as follows:



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Chola MS
GENERAL INSURANCE

RPAD
without Prejudice

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To,
Mr. MARUTHAIRAJ,
S.G. THANGARAJ,
NO 1119 AGRAHARAM,
PUTTIKUDI MELAVADI
POLALGUDI TK
LALGUDI HO
TIRUCHIRAPPALLI 621601
PH: 9786073780

Date: 08-05-2015

Dear Sir,

Sub: Accident to your vehicle no: TN-48-AA-4971 on 20-04-2015 reg.
Claim no. 3379139103.

We are in receipt of the above mentioned claim on 20-04-2015. Immediately we have deputed our surveyor who had visited to the garage for inspection of vehicle and assess the loss. The surveyor had inspected the vehicle at Trichy and recommended his report with the recommendations.

While processing the claim documents that were submitted by you it was found from the FIR report that there were 3+1 persons traveled in the vehicle at the material time of accident, but as per Registration Certificate the vehicle was registered for 2 seating capacity which was the violation of the Motor vehicle act and policy terms & conditions.

And also as per Registration Certificate the vehicle was registered under light goods vehicle to carry goods, but at the material time of accident there were 3 persons (including driver) traveled in your vehicle which was the violation of the Motor vehicle act and policy terms & conditions.

From the above breach we are not in a position to entertain your claim and your claim stands closed as No Claim.

Thanking you,

Yours truly,



Authorized Signatory

CHOLAMANDALAM MS GENERAL INSURANCE COMPANY LTD
4th Floor, Durg Hotel, 2 NSU Road, Chennai 600 001
PIN 600002

Tel: 044 20145400
Fax: 044 20145390

Regd. Office: Chennai
Chennai, Tamil Nadu



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3. As rightly pointed out by the learned counsel appearing for the petitioner, the claim was sought not for any personal injury but for damage to the vehicle. The impugned communication does not address this aspect at all. It stands quashed. Since the second respondent has not considered the petitioner's claim with regard to damage of the vehicle, the matter may have to be remanded to the second respondent once again. Instead doing so, I permit the petitioner to lodge complaint before the jurisdictional consumer forum. If the complaint is filed by the petitioner within a period of five weeks from the date of receipt of a copy of this order, the jurisdictional consumer forum shall entertain the same without reference to limitation. Notice will be issued to the respondents and to the opposite parties and the complaint will be disposed of on merits and in accordance with law within a period of six months thereafter.

4. This writ petition is disposed of with the following terms:

- a) The impugned communication issued by the second respondent is quashed;
- b) the petitioner is permitted to move the jurisdictional consumer forum. The jurisdictional consumer forum shall deal with the petitioner's complaint as directed above.



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There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

21.07.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

1.The District Collector,
Office of the District Collector,
Sivagangai District.

2.The Executive Officer,
Ilayankudi Town Panchayat,
Ilayankudi,
Sivagangai District.



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G.R.SWAMINATHAN, J.

MGA

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