BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.9966 of 2015

S.Muthukumar ... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Manager,
United India Insurance Company Ltd.,
Head Officer, No. 24 Whites Road,
Chennai 14.

3.The Divisional Manager,
United India Insurance Company Ltd,
Sitalakshmi Complex, GST. Road,
Thirunagar, Madurai - 6. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondents to pay the compensation amount to the Petitioner damaged insured vehicle on the basis of petitioner representation dated 10.04.2015 and 12.06.2015.

For Petitioner : Mr.M.Solaisamy

For Respondents : Mrs.K.Christy Theboral,
Addl. Government Pleader for R1.
Mr.B.Rajesh Saravanan for R3.

ORDER

Heard the learned counsel for the writ petitioner, the learned Additional Government Pleader for the first respondent and the learned counsel for the second respondent.

2.The basic facts are not in dispute. The petitioner purchased a car bearing registration No.TN-59-Q-9903. The car met with an accident on 28.03.2015. The vehicle had toppled and the vehicle suffered damage. The value of the damage was estimated as Rs.1,04,084/-. The petitioner applied to the third respondent for payment.

3.The third respondent took the stand that while the vehicle was insured in the name of M.Sharmila, the petitioner had not got the insurance policy transferred in his name. It was only the ownership of the vehicle which alone was transferred. In that view of the matter, the claim was repudiated.

4.The only question that calls for consideration is whether on account of non-transfer of insurance policy in his favour, the claim could have been negatived.

5.The issue has been settled by the Hon'ble Supreme Court in the decision reported ***(1996) 1 SCC 221 (M/s.Complete Insulations Private Limited Vs. New India Assurance Company Limited)***. The Hon'ble Apex Court had held as follows:-

> *"10.If the policy of insurance covers other risks as well, e.g., damage caused to the vehicle of the insured himself, that would be a matter falling outside Chapter XI of the New Act and in the realm of contract for which there must be an agreement between the insurer and the transferee, the former undertaking to cover the risk or damage to the vehicle. In the present case since there was no such agreement and since the insurer had not transferred the policy of insurance in relation thereto to the transferee, the insurer was not liable to make good the damage to the vehicle."*

6.This was followed in the subsequent decision reported in ***(1999) 3 SCC 754 (G.Govindan Vs. New India Assurance Company Limited).*** The Hon'ble Apex Court held as follows:-

> *"10.This Court in the said judgment held that the provisions under the new Act and the old Act are substantially the same in relation to liability in regard to third party. This Court also recognised the view taken in the separate judgment in Kondaiah's case that the transferee-insured could not be said to be a third party qua the vehicle in question. In other words, a victim or the legal representatives of the victim cannot be denied the compensation by the insurer on the ground that the policy was not transferred in the name of the transferee. This Court further held as follows :-*
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> > *"6.Now, under the old Act although the insurer could refuse to tansfer the certificate of insurance in certain circumstances and the transfer was not automatic as under the new Act, there was under the old law protection to third parties, that is victim of the accident. The protection was available by virtue of Sections 24 and 95 of the old Act."*
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> *11.The same view was taken in New India Assurance Co. Ltd. v. Sheela Rani (Smt.) & Ors., [1998] 6 SCC 599."*

7.Admittedly, only in the R.C.Book, the petitioner's name was entered. The insurance policy did not stand in his name. Therefore, the third respondent rightly negatived the petitioner's claim. Relief cannot be granted and the writ petition is dismissed. No costs.

20.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

The District Collector,
Madurai District,
Madurai.

G.R.SWAMINATHAN, J.

ias

W.P(MD)No.9966 of 2015

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