IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

C.M.A.No.1278 of 2020
and
C.M.P.No.9087 of 2020

The Branch Manager,
M/s.Iffco-Tokio General
Insurance Company Limited,
Branch Office situated at
'Adhitya Building', II Floor,
S.Complex, M.B.Road, Kolar,
Karnataka State. ... Appellant

Vs.

1.Subramanyam
2.S.Vijayakumar
3. S.Govinda Reddy ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 05.11.2019, passed in M.C.O.P.No.103 of 2017, by the Motor Accidents Claims Tribunal (In the Court of Special Sub Judge) at Krishnagiri.

For Appellant : Mr.J.Michael Visuvasam

For Respondents : No appearance [R1 to R3]

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JUDGMENT

Assailing the award passed in M.C.O.P.No.103 of 2017 vide judgment dated 05.11.2019 on the file of the Motor Accidents Claims Tribunal (In the Court of Special Sub Judge) at Krishnagiri, the present civil miscellaneous appeal has been filed by the appellant / Insurance company.

2. The brief facts necessary to dispose of the above appeal are as follows :-

(i) On 14.11.2015 at about 12:35 pm, when the first respondent / claimant was riding a two wheeler bearing Regn.No.KA 07 E 6681, at that time a luggage auto bearing Regn.No.AP 03 U 6212 belonging to the third respondent insured with the appellant / insurance company driven by its driver which came in a rash an negligent manner and dashed the vehicle driven by the first respondent / claimant. As a result of which, the first respondent sustained grievous injuries all over his body. Thereby the claimant has filed a claim petition, claiming a compensation of Rs.25,00,000/- under various heads.

3. Before the Tribunal, the claimant / first respondent examined himself as P.W.1 and marked Exs.P1 to Ex.P.9. On the side of the respondents, they examined R.W.1 and marked Ex.R1 and Court document was marked as Ex.C1. After adjudication, the Tribunal awarded a sum of Rs.9,33,400/- as compensation to be payable by the appellant / insurer of the offending vehicle in favour of the first respondent / claimant. Challenging the same, the present appeal has been filed by the appellant / insurance company.

4. The learned counsel appearing for the appellant / insurance company submitted that on the crucial date, viz., the date of accident, there was no valid subsisting policy for the vehicle as the policy Ex.P4 marked by the claimant is a fabricated one. Though, the original policy Ex.R1 was marked by the appellant before the Tribunal, however, there is mismatch in the credentials associated with the policy registration number provided by the claimant before the Tribunal and in the absence of a valid policy, the insurer cannot be expected to indemnify the insured

by paying the compensation to the injured. However, without properly appreciating the absence of a valid policy, the Tribunal has passed the award which requires interference.

5. Though the notice was served on the respondents no one appeared on their behalf. Considering the period of pendency of the appeal, the matter is disposed of based on the materials available on record.

6. Heard the learned counsel for the appellant and perused the materials placed on record.

7. The only ground on which the compensation awarded is sought to be assailed by the appellant is that on the crucial date, there was no valid subsisting policy and in the absence of a valid policy the insurer cannot be made to pay the compensation.

8. True it is that the Motor Vehicles Act is a benevolent piece of legislation intended to safeguard the interests of the injured/victim

through payment of compensation on the basis of the insurance policy. However, in the absence of an valid and subsisting insurance policy, there could be no contract of insurance between the insurer and insured so as to enable the insurer to indemnify the insured in case of any calamitous situation.

9. In the present case, on the crucial date, there was no valid subsisting policy of insurance covering the vehicle, as there is mismatch in the credentials associated with the policy registration number provided by the claimant before the Tribunal. In the absence of a valid policy, there arises no necessity for the appellant/insurance company to indemnify the insured. However, forgetting the basic concept of insurance vis-a-vis the Motor Vehicles Act, the Tribunal has erroneously awarded compensation to be paid by the appellant, which cannot be allowed to stand.

10. Accordingly, the Civil Miscellaneous Appeal is allowed and the judgment and decree dated 05.11.2019 made in M.C.O.P.No.103 of

2017 passed by the Motor Accidents Claims Tribunal (In the Court of Special Sub Judge) at Krishnagiri, is set aside. If any amount deposited by the appellant/insurance company, the appellant/insurance company is permitted to withdraw the same by filing appropriate application before the Tribunal. The first respondent / claimant is at liberty to recover the award amount from the owner of the offending vehicle bearing Regn.No.AP 03 U 6212 in the manner known to law. No costs. Consequently, the connected miscellaneous petition is closed.

15.11.2024

Index : Yes / No
Speaking order / Non-speaking order
Netrual Citation Case : Yes / No
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To

1. Motor Accidents Claims Tribunal (In the Court of Special Sub Judge) at Krishnagiri.

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

M.DHANDAPANI, J.

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