



WEB COPY

C.M.A.No.1841 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2024

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

C.M.A.No.1841 of 2024

and

C.M.P.No.14660 of 2024

National Insurance Company Ltd.,
Having Branch Office at 74-A,
Paramathy Road, Namakkal.

... Appellant

Vs.

1.Palanisamy
2.R.Renukadevi
3.P.Monesha
4.Pappayammal
5.A.Allimuthu
6.M.SenthilRaja

... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the decree and judgment award made in MCOP.No.85 of 2018 dated 30.01.2024 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Perundurai.

For Appellant : Dr.C.Paranthaman



For Respondents : Mr.S.Kaithamalai Kumaran for R1 to R4

J U D G M E N T

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

The Insurance Company is on appeal. The only contention of the learned counsel for the Insurance Company/ appellant is that the policy issued to the offending vehicle was cancelled since the cheque issued for payment of premium was returned by the Banker.

2. However, it is seen from the records that after the filing of the counter statement an amendment petition was filed and the same was allowed amending the policy number and introducing a new policy number. This amendment was sought for in I.A.No.2 of 2019 and the same was allowed on 24.01.2020. It is conceded that this amendment was not opposed.

3. It is the contention of the learned counsel that the policy number introduced viz., 651300/31/17/630000/5703 did not relate to the vehicle that was involved in the accident.

4. This plea was not advanced before the Tribunal. No additional



counter was filed after the amendment was introduced. Nobody was examined on the side of the Insurance Company before the Tribunal. Therefore, it is for the first time in the appeal, the learned counsel for the Insurance Company seeks to let in his own evidence, which we do not think can be allowed.

5. Hence, the appeal is **dismissed**, however we find that this chaos has occurred due to the negligence of the learned counsel for the Insurance Company and its officials. It will be open to the Insurance Company to seek appropriate remedy against those who are responsible for not filing the additional counter and for not letting in evidence in the Original Petition before the Tribunal. No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.M., J.) (R.S.V., J.)
24.07.2024

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

To

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The Motor Accident Claims Tribunal,
Subordinate Judge, Perundurai.

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