



WEB COPY



C.M.A. No.2128 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.2128 of 2021

and

CMP No.11760 of 2021

The United India Insurance Company Ltd.,
Micro Office,
Door No.22B,
Door No.11,
Krishnaveni Complex,
Bypass Road,
(Sankagiri Road),
Pallipalayam – 638 006,
Namakkal District.

.... Appellant

vs.

B. Sivakumar

.... Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 as against the judgment and decree made in MCOP No.753 of 2009, dated 13.11.2019 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Sankagiri.

For Appellant

:Mr.M.B. Raghavan

for M/s.M.B.Gopalan & Associates

For Respondent

:Mr.K.R. Samrat

JUDGMENT



C.M.A. No.2128 of 2021

This appeal has been filed by the Insurance Company challenging the impugned award passed against them on the ground that the claim petition filed by the respondent /claimant is not maintainable before the Tribunal as the claimant has claimed compensation for the damage caused to the vehicle insured with the appellant / Insurance Company.

2. As seen from the impugned award, admittedly the compensation claim has been made by the respondent / claimant only for the damages suffered by the vehicle insured with the appellant. There is no personal damage claim made by the respondent / claimant before the Tribunal. The claim of the respondent / claimant before the Tribunal will not fall within the purview of Section 165 of the Motor Vehicles Act. Only in the cases falling under Section 165 of the Motor Vehicles Act, a claim for compensation can be made before the Tribunal.

3. In the instant case, admittedly, the claim being a vehicle damage claim will not fall under Section 165 of the Motor Vehicles Act as the owner himself has claimed compensation for the damages suffered to his vehicle which has been insured with the appellant.

4. In view of the settled law, this Court is of the considered view that the Tribunal has erroneously by total non application of mind to the settled law has directed the appellant / Insurance Company to pay



C.M.A. No.2128 of 2021

compensation to the respondent / claimant for the damages caused to the vehicle insured with the appellant / Insurance Company. Necessarily, the impugned award has to be set aside by this Court. Accordingly, the impugned award passed by the Tribunal in M.C.O.P. No.753 of 2009 is hereby set aside and this Civil Miscellaneous Appeal is allowed as prayed for. No costs. Consequently, connected miscellaneous petition is closed.

5. However, liberty is granted to the respondent / claimant to proceed against the appellant / Insurance Company in the manner known to him under law.

6. The appropriate Forum to be approached by the respondent / claimant and the said Forum shall consider the applicability of Section 14 of the Limitation Act to enable the respondent / claimant to save limitation provided, if the respondent / claimant satisfies the appropriate forum with regard to the same.

22.04.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsi2

ABDUL QUDDHOSE, J.



C.M.A. No.2128 of 2021

vsi2

WEB COPY

To

1. The Sub Judge,
Motor Accidents Claims Tribunal,
Subordinate Court, Sankagiri.
2. The Section Officer,
V.R. Section, High Court of Madras,
Chennai – 104.

C.M.A. No.2128 of 2021

22.04.2024