IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.11.2024

CORAM:

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

C.M.A.No.1897 of 2021

The United India Insurance Co.Ltd.,
Represented by its Divisional Manager,
Thiruvallur. ..Appellant

Vs.

1. Malliga
2. Karthikeyan
3. Selvakumar
4. Vijayalakshmi
5. Minor Praveen Kumar
6. Minor Sathishkumar
   (Minors are represented by their mother Vijayalakshmi)
7. Sarasu
8. Minor Yogeswari
   (Minor Yogeswari is representd by her mother Sarasu)
9. Chandra John ...Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 22.04.2019 in M.C.O.P.No.150 of 2013 on the file of Motor Accidents Claims Tribunal (Subordinate Judge) at Ranipet dated 22.04.2019.

For Appellant : Mr.M.Krishnamoorthy

For Respondents : Mr.M.Siva Kumar for R1, R7 & R8
No appearance for R2 to R6 and R9

**JUDGEMENT**

Challenging the judgment and decree dated 22.04.2019 made in M.C.O.P.No.150 of 2013 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge) at Ranipet, the appellant has filed the above appeal.

2. Mr.M.Siva Kumar, learned counsel takes notice on behalf of the respondents 1, 7 & 8.

3. Though the notice was served on the respondents 2 to 6 and 9, no one appeared on their behalf. Considering the period of pendency of the above appeal, the same is taken up for final disposal based on the materials available on records.

4. It is the case of the claimant that, on 26.12.2007 at about 9.15 pm, when the deceased Duraisami was riding his two wheeler bearing Regn.No.TN

23 X 1516, at that time a Telco Sumo bearing Regn.No.TN 09 H 1399 insured with the appellant insurance company, driven by its own owner / 9th respondent came in a rash and negligent manner and dashed against the two wheeler in which the deceased was travelling, thereafter, he was immediately admitted in the Hospital and died on 11.01.2008. Thereby, the claimants who are the legal heirs of the deceased have filed a claim petition seeking compensation of Rs.5,00,000/-.

5. Before the tribunal, the claimant examined himself as P.W.1 and P.W.2 and marked exhibits P.1 to P.5 and on the side of respondents no witnesses were examined and Exhibit R1 was marked. After trial, the Tribunal, on appreciation of oral and documentary evidence awarded Rs.4,82,000/- as compensation to the claimants to be payable by the appellant insurance company and the 9th respondent. Challenging the same, the appellant/ Insurer of the offending vehicle has come up with this appeal.

6. Learned counsel appearing for the appellant / Insurance Company

submitted that the Tata Sumo was originally insured with United India Insurance Co. Ltd., at Tiruvallur Branch vide Policy No.012002/31/06/02/00002155 for the period from 20.06.2006 to 19.06.2007. After the expiry of the policy period, the policy has not been renewed for further period. He further submits that though the accident happened on 26.12.2007, however, the validity of the policy had expired on 19.06.2007. Hence, there was no insurance coverage for the aforesaid Van with the appellant / insurance company at the time of accident. Therefore, the appellant is not liable to compensate the claimants. Accordingly, he prayed for allowing this appeal.

7. Heard the learned counsel appearing for the respondents 1, 7 & 8 and perused the materials available on record.

8. The factum and manner of the accident is not disputed by the parties. The issue arises in the present appeal is whether the insurance coverage for the vehicle in question existed, at the time of accident ?

9. Admittedly, the deceased died on 11.01.2008. Thereby, the claimants have filed a claim petition before the Tribunal and the Tribunal awarded a sum of Rs4,82,000/- as compensation to the claimants to be payable by the appellant / Insurance company and the 9th respondent / owner of the Van. Though the facts stand as such, however, the appellant / insurance company specifically claimed that the vehicle in question was originally insured with the United India Insurance Co.Ltd., at Thrivallur Branch and also that the accident occurred on 26.12.2007, however, the policy had expired as early as on 19.06.2007. When there being no insurance coverage for the aforesaid Van at the time of accident i.e., on 26.12.2007, the appellant / insurance company is not liable to indemnify the claimants for the loss sustained by them due to the death of the deceased. In such circumstances, the claimants have also not produced a valid insurance coverage for the subject vehicle at the time of accident, inspite of several opportunities granted by this Court to the respondents 1, 7 & 8 for production of policy. Accordingly, the impugned award passed by the Tribunal in M.C.O.P.No.150 of 2013 dated 22.04.2019 is

set aside.

10. Accordingly, the Civil Miscellaneous Appeal is allowed and the judgment and decree dated 22.04.2019 made in M.C.O.P.No.150 of 2013 passed by the Motor Accidents Claims Tribunal (Subordinate Judge) at Ranipet, 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 claimants shall recover the award amount from the owner of the Van bearing Regn.No.TN 09 H 1399 in the manner known to law. No costs. Consequently, the connected miscellaneous petition is closed.

**27.11.2024**

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Index : Yes / No
Speaking Order : Yes / No
Neutral Citation Case : Yes / No

To

1. Motor Accidents Claims Tribunal (Subordinate Judge) at Ranipet
2. The Section Officer,
   V.R. Section, High Court, Madras.

**M.DHANDAPANI, J.**

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