IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2024

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THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

C.R.P. No. 3479 of 2024
and
C.M.P. No. 18843 of 2024

M/s. United India Insurance Co. Ltd.
Having its Division Office - 171700
No.129-C, Coimbatore Main Road
Mettupalayam - 641301
Coimbatore, Tamil Nadu. ... Petitioner / Petitioner / 4th respondent

Vs.

1. S.Premkumar (Minor)
S/o. Sundararajan
(Minor rep. by his father & NF Sundararajan) ... Respondent/Respondent/ Petitioners

2. K.Naveenkumar

3. N.V.Lakshmanan

4. R.Kandasamy ... Respondents 2 to 4 / Respondents 2 to 4 / Respondents 1 to 3

5. The New India Assurance Co. Ltd.,
Regional Office,
594, Obli Towers,
D.B.Road, R.S.Pram,
Coimbatore - 641002. ...5th respondent / 5th respondent / Proposed Party

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order made in I.A. No. 7 of 2023 in M.C.O.P. No. 1749 of 2019 dated 06.04.2024 on the file of the Motor Accidents Claims Tribunal/Chief Judicial Magistrate Court, Coimbatore.

For Petitioner : Mr. M.B.Raghavan

For R5 : Ms. Sree Vidhya

O R D E R

The civil revision petition arises against the order dated 06.04.2024 passed by the Chief Judicial Magistrate Court -cum- Motor Accidents Claims Tribunal at Coimbatore in I.A. No. 7 of 2023 in M.C.O.P. No. 1749 of 2019.

2. M.C.O.P. No. 1749 of 2019 has been presented by the 1st respondent seeking compensation for an accident that had taken place on 25.04.2019. It is the case of the 1st respondent that the accident occurred on account of the fact that the 2nd respondent had driven the vehicle in a rash and negligent manner. He would plead that the 3rd respondent is the person in charge of the vehicle. He would further plead that the 4th respondent/United India Insurance Co. Ltd., had issued an insurance policy for the said vehicle and, therefore, would plead that compensation is payable by the tort feasors who was indemnified by the 4th respondent.

3. Pending the proceedings, the civil revision petitioner/4th respondent claimed that it had in fact issued the policy for the vehicle covering the period of the accident. It would also state that the proposed party, namely the 5th respondent herein, had also issued an insurance policy for the said period. In other words, on the date of the accident 25.04.2019, there was a policy issued by United India Insurance Company commencing from 09.01.2019 to 08.01.2020, and another policy issued by the New India Assurance Company for the period from 16.05.2018 to 15.05.2019. Therefore, the 4th respondent took out an application to implead the New India Assurance Company as a party to the M.C.O.P. proceedings. This is because, the plea of the civil revision petitioner/4th respondent is that in case the Court comes to a conclusion that the Insurance Company is liable, it could claim contribution from the other insurer, who had also issued an insurance policy for the same period. This application was dismissed by the learned Trial Judge on the ground that the matter is pending from 2019 and it was at that late stage, the said application came to be filed. Hence, the revision.

4. When the matter came up for admission on 22.08.2024, I requested Mr. M.B.Raghavan to serve notice on the standing counsel for the New India Assurance Company. Accordingly, he had served Ms. Sree Vidhya. Ms. Sree Vidhya would contend that the matter of contribution by the Insurance

Company to an other insurer has to be decided by the Court only after going through both the policies.

5. At the stage of impleading, the only issue that the Court has to consider is whether two Insurance Companies had issued a policies for the same vehicle covering the period of the accident. It is the specific plea of the civil revision petitioner that on the date of accident viz., 25.04.2019, there was a policy issued by United India Insurance Company, which overlapped with the Insurance Policy that had been given by New India Assurance Company. Since the accident having fallen in the period during which both the Insurance Companies had issued policies covering the liability of the 2nd respondent, I find that the New India Assurance Company is also a proper and necessary party to the proceedings. Therefore, the civil revision petition is allowed. The order passed by the learned Chief Judicial Magistrate Court / the Motor Accidents Claims Tribunal at Coimbatore in I.A. No. 7 of 2023 in M.C.O.P. No. 1749 of 2019 dated 06.04.2024 is set aside.

6. The learned MACT shall decide on the liability of the civil revision petitioner as well as the newly impleaded party at the time of final disposal. The learned Judge, shall of course, peruse the Insurance Policy that has been issued by both the Insurance Companies and decide if one Insurance company

is bound to contribute for the other's liabilities.

7. With the above direction, the civil revision petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

02.09.2024

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No
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To

The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate Court, Coimbatore.

V.LAKSHMINARAYANAN, J.,

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C.R.P. No. 3479 of 2024

02.09.2024