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Civil Miscellaneous Appeal No.1751 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1751 of 2024

1.Sivakami
W/o.Late Palanisamy

2.P.Priya
D/o.Late Palanisamy

3.P.Deepika
D/o.Late Palanisamy

4.Karuppan
F/o.Palanisamy

5.Sankaral
M/o.Palanisamy

... Appellants

Vs.

1.M.Rajavel
S/o.Madathangam

2.The Branch Manager,
HDFC ERGO General Insurance Company
Limited,
4th Floor, Rajanarayanan Towers,
No.70, Race Course Road,
Kovai - 641 018.

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor



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Vehicles Act, 1988, against the judgment and decree dated 04.07.2023 made in M.C.O.P.No.175 of 2019 on the file of Motor Accident Claims Tribunal, III Additional District and Sessions Court, Gobichettipalayam, Erode.

For Appellants : Mr.S.P.Yuaraj

For Respondents : Mr.S.Arunkumar [R2]

JUDGMENT

The appellants, not being satisfied with the exoneration of the insurance company from payment of compensation, have filed this appeal against the award passed by the Motor Accident Claims Tribunal, III Additional District and Sessions Court, Gobichettipalayam, Erode, in M.C.O.P.No.175 of 2019, dated 04.07.2023.

2. Heard Mr.S.P.Yuaraj, learned counsel for appellants and Mr.S.Arunkumar, learned counsel appearing for second respondent.

3. The Tribunal, on considering the entire materials available on record, has found that the policy relied upon was a fake policy. To demonstrate the same, the actual policy issued by the second respondent insurance company was placed before this Court. This policy was issued



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for a TVS 50 Moped. However, a fake policy has been prepared as if it was issued to a lorry. The Tribunal has exonerated the insurance company on the ground that they cannot be fastened with a liability based on a fake policy. The above finding of the Tribunal is sufficiently backed up by the judgment of this Court in *M/s.Bajaj Allianz General Insurance Company Limited v. Devan and others [C.M.A.No.537 of 2021, dated 03.02.2022]*.

4. The Tribunal has rightly saddled the liability on the owner of the vehicle viz., the first respondent. This Court does not find any ground to interfere with such finding rendered by the Tribunal. In the light of the above discussion, this Court is not inclined to interfere with the award passed by the Tribunal. It is always left open to the appellant to recover the compensation from the first respondent as directed by the Tribunal in accordance with law.

N.ANAND VENKATESH, J.

gm



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WEB COPY Accordingly, this Civil Miscellaneous Appeal is disposed of. No costs.

23.07.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

gm

To

The Motor Accident Claims Tribunal,
III Additional District and Sessions Court,
Gobichettipalayam,
Erode.

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