



C.M.A. No.933 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.933 of 2020
and
C.M.P. No.5843 of 2020

M/s.United India Insurance Co. Ltd.,
Represented by its Branch Manager,
198-A, Gandhi Road,
Arakonam,
Vellore District.

... Appellant

vs.

1. Muthammal

2. M/s.PNX Logistics Pvt. Ltd.
No.15, Jindal Nagar,
Next to Jindal Aluminium Ltd.,
Tumkur Road,
Chikkabiradakallu,
Bangalore – 560 073.

.... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 13.08.2019 made in M.C.O.P. No.419 of 2018 on the file of the Motor Accidents Claims Tribunal, Special District Court, Krishnagiri.

For Appellant
For Respondents

: Mr.S. Arun Kumar
: Mr.C. Prabakaran for R1
R2- Left

JUDGMENT



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This appeal has been filed by the Insurance Company challenging the award on the following grounds :-

a) Since two vehicles were involved in the accident, the appellant / Insurance Company which has insured one vehicle (lorry) alone cannot be held liable to pay compensation;

b) The lorry insured with the appellant was in a stationary position when the accident happened and therefore the appellant / Insurance Company cannot be made liable to pay compensation and

c) At the time of the accident, the insurance coverage was not there for the lorry, which was insured with the appellant.

2. Heard Mr.S. Arun Kumar, learned counsel for the appellant / Insurance Company and Mr.C. Prabakaran, learned counsel for the 1st respondent. Since this Court is confirming the award, there is no necessity to serve the notice on the 2nd respondent and further the 2nd respondent was set ex-parte by the Tribunal.

3. This Court has perused and examined the impugned award as



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well as the materials and evidence available on record before the Tribunal.

4. Admittedly, the FIR has been registered only against the lorry insured with the appellant / Insurance Company. Admittedly, the deceased was a passenger in a car which dashed against the lorry insured with the appellant / Insurance Company. The deceased is a 3rd party and therefore the claimant, who is the dependant of the deceased is entitled to make a claim for compensation against the lorry insured with the appellant / Insurance Company. The evidence placed on record by the claimant will prove that the lorry insured with the appellant / Insurance Company was responsible for the cause of the accident though the appellant may contend that since two vehicles were involved, the driver of the car in which the deceased was travelling as a passenger is also responsible for the cause of the accident.

5. It is settled law that the claimant can proceed against any of the tortfeasors. The claimant has chosen in this case to proceed against the lorry insured with the appellant as per the FIR which has been marked as Ex.P1. No contra evidence is also available on record to prove that the driver of the car in which the deceased was travelling as a passenger was also responsible for the cause of the accident. Therefore, the Tribunal has



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rightly held that the driver of the lorry insured with the appellant is alone responsible for the cause of the accident though the appellant / Insurance Company may contend that even as per the FIR, the lorry insured with the appellant / Insurance Company was in a stationary position when the car collided with the lorry and therefore, the appellant/ Insurance Company cannot be made liable to pay compensation.

6. This Court after giving due consideration to the findings of the Tribunal as well as the evidence available on record cannot accept the contention of the appellant, since no contra evidence has been produced by the appellant / Insurance Company to disprove the contentions of the claimant that the lorry insured with the appellant / Insurance Company was alone responsible for the cause of the accident. This Court does not find any infirmity with the findings of the Tribunal.

7. In the result, there is no merit in this appeal. Accordingly, this Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

8. The appellant / Insurance Company is directed to deposit the entire award amount awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P No.419 of



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2018 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Motor Accidents Claims Tribunal, Krishnagiri, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the 1st respondent /claimant through RTGS, within a period of two weeks thereafter.

15.04.2024

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

To
1. The Sub Judge,
Special District Court,
Motor Accidents Claims Tribunal,
Krishnagiri.

2. The Section Officer,
V.R. Section, High Court of Madras,
Chennai – 104.

ABDUL QUDDHOSE, J.



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