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C.M.A.No.692 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.692 of 2021 and C.M.P. No.4164 of 2021

The United India Insurance Co. Ltd.,
3rd Party Claims HUB,
Katpadi Road, Vellore.

.. Appellant

Vs.

1.Manoharan

2.Umarani

3.R.Gopi

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 22.02.2017 made in M.C.O.P. No.138 of 2015 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Vaniyambadi.

For Appellant : Mr.M.Krishnamoorthy

For Respondents : Mr.F.Terry Chella Raj
for R1 & R2

R3-Exparte

JUDGMENT



C.M.A.No.692 of 2021

WEB COPY This appeal has been filed by the appellant/Insurance Company, challenging their liability to pay compensation on the ground that erroneously, the Tribunal has entertained the Claim Petition filed by the respondents 1 and 2/claimants despite the fact that there was only one vehicle involved and the deceased was himself a Tort Feasor.

2.Admittedly, the deceased fell down from the Motor Cycle, insured with the appellant. As a result of the same, he died on the spot. There was no other vehicle involved in the accident. The deceased was the defacto owner of the insured vehicle as the RC registration certificate was not transferred in his name but was still standing in the name of the third respondent herein, the previous owner. The deceased also did not possess driving licence as seen from the evidence available on record.

3.When the deceased himself was the tort feasor, who was also the owner of the vehicle, insured with the appellant, the question of payment of compensation to the dependants of the deceased does not arise. Further, as seen from the evidence available on record, it is also an admitted fact that the deceased did not possess a valid driving licence at the time of accident.



C.M.A.No.692 of 2021

4.For the foregoing reasons, this Court is of the considered view that the Tribunal has erroneously held the appellant/Insurance Company liable to pay compensation despite the fact that there is no personal accident coverage under the Insurance Policy, marked as Ex.R1. Further the deceased was also not possessing the valid driving licence at the time of accident.

5.In the result, the impugned award is hereby set aside as against the appellant/Insurance Company and the appeal is allowed. The appellant/Insurance Company is permitted to withdraw the amount, deposited by them to the credit of M.C.O.P. No.138 of 2015 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Vaniyambadi, by filing an appropriate application before the Tribunal. However, the respondents/claimants are directed to recover the award amount from the owner of the vehicle, viz. the third respondent. No costs.

24.04.2024

vga



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C.M.A.No.692 of 2021

ABDUL QUDDHOSE, J.

vga

To

- 1.The Motor Accidents Claims Tribunal,
Subordinate Judge, Vaniyambadi
- 2.The Section Officer,
V.R. Section, High Court, Madras.

C.M.A. No.692 of 2021 and C.M.P. No.4164 of 2021

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