



C.M.A(MD)No.811 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.811 of 2021
and
C.M.P.(MD)No.7507 of 2021

M/s.United India Insurance Company,
104 A, Perampanoor Main Road,
Divisional Office 2,
1st Floor, Salem Nagar,
Salem District.

... Appellant

Vs.

1.Lakshmanan
2.Jeyalakshmi
3.Kalpana

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed in M.C.O.P.No.39 of 2015, dated 09.10.2018, on the file of the Motor Accident Claims Tribunal cum Subordinate Judge, Devakottai.

For Appellant : Mr.C.Jawahar Ravindran

For R1 : Mr.R.Jenifar Bibin

For R2 and 3 : No appearance



C.M.A(MD)No.811 of 2021

JUDGEMENT

WEB COPY

The Insurance Company has filed this Civil Miscellaneous Appeal. It is a case of injury.

2.The contention of the Insurance Company is that the accident occurred due to an auto and not due to the vehicle which was insured with them. The Insurance Company has deposed the same before the Tribunal. However, the Tribunal has rejected the deposition by stating that without taking any plea in the written statement, the said deposition cannot be accepted. The contention of the Insurance Company is that they had filed written statement and had filed additional written statement specifically taking the plea that the auto is involved in the accident and not the vehicle which was insured in the Insurance Company.

3.The Tribunal has failed to take the additional written statement. Therefore, this Court is inclined to allow this Civil Miscellaneous Appeal. Hence, the order passed by the Tribunal is set aside and the case is remitted back to the Tribunal for reconsideration. The Tribunal shall consider the case and pass orders within a period of two weeks from the date of receipt of a copy of this judgment.



C.M.A(MD)No.811 of 2021

4. With the above said observation, the Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

21.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Tmg

Note: Issue order copy on 21.02.2024.

To

1. Motor Accident Claims Tribunal
cum Subordinate Judge,
Devakottai.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A(MD)No.811 of 2021

S.SRIMATHY, J.

Tmg

C.M.A(MD)No.811 of 2021

21.02.2024