



C.M.A(MD)No.1191 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1191 of 2014

Saathi (died)

S.Saathayi

.. Appellant / Legal heir of claimant

Vs.

1.G.Gunasekaran

2.The Divisional Manager,

United India Insurance Company Limited,

Whites Road, Chennai.

...Respondents / Respondents

(Cause title accepted vide order dated 18.11.2014
made in MP(MD)No.1 of 2014 in CMA(MD)SR.
No.46337 of 2012)

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act against the fair order and decretal order in MCOP No.3 of 2005 on the file of the Chief Judicial Magistrate Court (Motor Accident Claims Tribunal), Ramanthapuram, dated 20.06.2012.

For Appellant	: Mr.V.Vijaya Sethupathy
For R1	: No appearance
For R2	: Mr.I.Suthakaran



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JUDGMENT

The claimant has filed this Civil Miscellaneous Appeal.

2.It is a case of injury. After hearing the arguments of the parties, the Tribunal has held that the vehicle belonging to the 1st respondent was not insured with the 2nd respondent at all. The 2nd respondent vehemently contested that when the vehicle was not insured with their company, the Insurance Company cannot be made liable to pay the amount. The Tribunal came to the conclusion that the claimant has not proved that the vehicle was insured with the 2nd respondent.

3.On perusing the documents, it is seen the copy of the policy or the original policy was not filed as evidence. Only the motor accidents vehicle report states that the vehicle is insured, but there is no policy particulars and the details whether the policy was alive or not was not furnished. On relying on the report alone, it cannot be concluded that the policy is in existence, when the Insurance Company vehemently opposed that there is no policy at all. In such circumstances, the Tribunal is absolutely right in fixing the liability on the first respondent, owner of the vehicle.



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4. As on date, the first respondent has not paid the amount. Further the first respondent had not preferred any appeal. Hence, the award passed by the Tribunal is confirmed.

5.The first respondent herein is directed to deposit Rs.1,06,500/- (Rupees One Lakh Six Thousand and Five Hundred only) with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the appellant herein / legal heir of claimant is permitted to withdraw the same with accrued interests and costs, less the amount already withdrawn by her, if any, by filing appropriate application before the Tribunal.

6.With the above said observation, the Civil Miscellaneous Appeal is dismissed. No costs.

24.04.2024

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

Tmg



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- 1.Chief Judicial Magistrate Court
(Motor Accident Claims Tribunal),
Ramanthapuram.
- 2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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