IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.01.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.No.3671 of 2014 and M.P.No.1 of 2014

A.Kannan ...Appellant/1st Respondent

Vs

1.Mummoorthy
2.Shenpagam
3.Minor Kalvikarasi rep. By
Natural Guardian father 1st petitioner..Respondents 1 to 3/Petitioners
4.ICICI Lombard General Insurance C., Limited
Chennai - 28 ..4th Respondents/2nd Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicle Act to set aside the award dated 30.04.2012 passed in M.A.C.O.P.no.294/2009 on the file of the Principal District Judge/Motor Vehicle Accidents Claims Tribunal, Villupuram.

For Appellant :Mr.S.Pushpakaran

For Respondents :Ms.R.Sreevidhya for R2

J U D G M E N T

The Appeal has been preferred by the owner of the mini door vehicle, namely, tempo fastening the liability on the owner.

2.Heard the learned counsel for the appellant.

3.The Appellant is the owner of mini door vehicle, namely, tempo in which the deceased and others travelled, when the accident occurred on 15.01.2009. Therefore, the legal heirs of the deceased, Kannadasan filed the claim petition. On contest by the Insurance Company, the Tribunal found that accident occurred due to the rash and negligent driving of the driver of the mini door vehicle, namely, tempo and fastened the liability on the appellant/owner. The vehicle was not authorised to carry the passengers and it is goods vehicle. Now, the award has been challenged by the owner on the ground that the Tribunal should not have fastened the liability on the appellant and only the Insurance company should be directed to pay the amount.

4.The Tribunal found that apart from the driver and three other persons travelled in the mini door vehicle, namely, tempo at the time of accident and it is authorised to be used only for the purpose of transporting goods and not for passengers. As it was proved by the Insurance Company through the documents as well as oral evidence that the deceased and others travelled as un-authorised passengers, the Tribunal found that the liability should be fastened against the appellant. It has been decided by the Hon'ble Supreme Court in New India Assurance Company Limited vs. Asha Rani and others reported in (2003) 2 SCC 223, that Section 147 of the Motor Vehicles Act, interalia prescribes compulsory coverage for death or bodily injury to passengers of public service vehicle, is not available to any damage on the goods carriage. When such categorical decision was given by the Hon'ble Supreme Court reported in (2003) 2 SCC 223, the contention of the learned counsel for the appellant that Section 147 does not differentiate 3rd party or passenger travelling goods carrier is not sustainable. The complete answer for the contention of the learned counsel for the appellant is the above referred Asharani Judgment.

5.In my opinion, there is no occasion for this Court to interfere with the award passed by the Tribunal, which is consonant to the decision by the Hon'ble Supreme Court reported in New India Assurance Company Limited vs. Asha Rani and others reported in (2003) 2 SCC 223. Hence the Civil Miscellaneous Appeal is dismissed. The appellant is directed to deposit entire amount along with interest within a period of four weeks from the date of receipt of copy of this order. On deposit the respondents are permitted to receive the entire award amount. Consequently connected miscellaneous petition is closed. No costs.

Sd/-
Deputy Registrar
Dated:24.2.15

True Copy

Sub Assistant Registrar

To
The Principal District Judge/Motor Vehicle Accidents
Claims Tribunal, Villupuram.

+1 cc to M/s.R.Sreevidhya, Advocate,Sr.5233

+1 cc to Mr.S.Pushpakaran, Advocate,SR.4965.

ts(co)
krd 19/3

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