

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2016

CORAM:

THE HONOURABLE MR. JUSTICE G.CHOCKALINGAM

**CMA.Nos.1028 to 1031 of 2002
and CMP.Nos.7321 to 7324 of 2002**

Oriental Insurance Co. Ltd.,
Cuddapah Proddatur,
Andhra Pradesh

.. appellants in all the appeals
Vs

L.Krishnamurthy .. first respondent in CMA.No.1028 of 2002

E.Lakshmana Gowdu .. first respondent in CMA.No.1029 of 2002

Mahesh .. first respondent in CMA.No.1030 of 2002

Chandrasekara Gowdu .. first respondent in CMA.No.1031 of 2002

Kaleelur Rahim .. second respondent in all the appeals

PRAYER : All the Appeals are filed under Section 173 of the Motor Vehicles Act, against the common judgment and decree passed by the Motor Accident Claims Tribunal (Additional Special Court), Krishnagiri in MCOP.Nos.38 to 41 of 1997 dated 10.07.2001.

For Appellant : Mr.N.Vijayaraghavan.

For respondents : R1 - Service awaited.
R2 - Exparte.

COMMON JUDGMENT

All the Civil Miscellaneous Appeal are filed against the common judgment and decree made in MCOP.Nos.38 to 41 of 1997 dated 10.07.2001, on the file of the Motor Accident Claims Tribunal, Additional Special Court, Krishnagiri.

2.The learned counsel for the appellants/Insurance Company in all the four appeals mainly contended that the insurance company is not all liable to pay the claim to the claimants, since the claimants are occupant carried in a private car is not required to be covered under the insurance policy/Ex.R3. The trial Court erred in following the principles laid down in **2000 ACJ 1**, the said judgment is referred before the larger bench for reconsideration in **2001 (6) Supreme 359**. The appellant/insurance company has not questioned the quantum of damage granted by the trial Court, the only contention raised is the occupants carried in a private car, the policy is not covered under the claim.

3.Heard the learned counsel appearing for the appellant/insurance company and perused the entire records.

4.All the appeals have been filed by the insurance company against the award dated 10.07.2001 and the claims are arising due to the accident held on 16.04.1993 at 5.00am. The main contention of the appellant/insurance company is that the victims are unauthorised occupants in the private car. It is seen that more than 23years have been completed from the date of the accident i.e, 16.04.1993. The trial Court after perusing the entire documents and the materials available on record finally comes to the conclusion that the insurance company is also liable to pay the compensation to the claimants. The learned counsel for the appellants/insurance company submitted that the entire amount of award has already been deposited before the Tribunal. This Court finds that there is no illegality, infirmity or perversity in the award passed by the Tribunal and the same does not warrant any interference by this Court.

5.In the result, all the civil miscellaneous appeals are dismissed, confirming the judgment and decree passed by the Tribunal made in MCOP.Nos.38 to 41 of 1997 on 10.07.2001. The parties are permitted to withdraw their respective award deposited before the Tribunal. No costs. Consequently, connected miscellaneous petitions are closed.

26.10.2016

G.CHOCKALINGAM, J.

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To

The Motor Accident Claims Tribunal,
Additional Special Court, Krishnagiri.

CMA.No.1028 to 1031 of 2002

26.10.2016.

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