

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2016

CORAM : THE HON'BLE Mr.JUSTICE N. SESHASAYEE

C.M.A.No.469 of 2007
and MP.No.1 of 2007

United India Insurance Company Ltd.,
19/2A, Junction Main Road,
Opp. Raja Kalyana Mahal,
Five Roads, Salem-4.

Appellant/II Respondent

Vs

1.P.Kamaraj
2.P.Alexander

.. Respondents/Petitioner/
1st Respondent

Prayer : Civil Miscellaneous Appeal preferred under Section 173 of Motor Vehicles Act 1988 against the judgment and decree of the Motor Accident Claims Tribunal [Addl. District Judge-in-Charge], Fast Track Court No.2 at Salem in MACTOP.No.380 of 2003 dated 28.08.2006.

For Appellant : Mr.K.Suryanarayanan

For Respondents: Mr.P.Jagadeesan [for R1]

JUDGMENT

The Insurance Company which is arrayed as the second respondent before the Tribunal in MCOP.No.380 of 2003 on the file of the Motor Accident Claims Tribunal, [Additional District Judge-in-Charge, Fast Track Court No.2], Salem, has come forward with this appeal challenging essentially its liability to pay compensation.

2. The claimant/first respondent has alleged that he suffered injuries when the auto bearing registration No.TN27-W-4887 in which he was travelling capsized. The auto belonged to the second respondent and was insured with the appellant. For the various injuries suffered, the claimant had moved the Tribunal and sought a compensation of Rs.5,00,000/-, against which the Tribunal has passed an award for Rs.1,79,244/- payable with interest at 7.5% per annum.

3. The learned counsel for the appellant chiefly contended that the vehicle in question was a goods carrying vehicle and

there is a seating capacity for only one person namely the driver and consequently, there is no policy cover for any other persons accompanying the vehicle. In other words, his argument is that the claimant was a gratuitous passenger in a goods carrier and that there is no valid policy cover for death or injury to him.

4. Per contra, the learned counsel for the claimant argued that the claimant was travelling along with the goods and he is covered by the policy. This apart, in a petition filed under Section 166 of the Motor Vehicles Act, the Tribunal has adopted the method provided for computing compensation under Section 163 (A) of the Motor Vehicles Act.

5. Upon hearing the arguments advanced on either side and after perusing the material record, I find that the claimant has travelled only along with the goods of the owner in his capacity as a sales representative. Consequently, I do not find any merit in this appeal and the same is dismissed without costs.

6. The appellant/Insurance Company is directed to deposit the award amount, less if any already deposited, within four weeks from the date of receipt of a copy of this order, and on such deposit, the claimant is entitled to withdraw it forthwith. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

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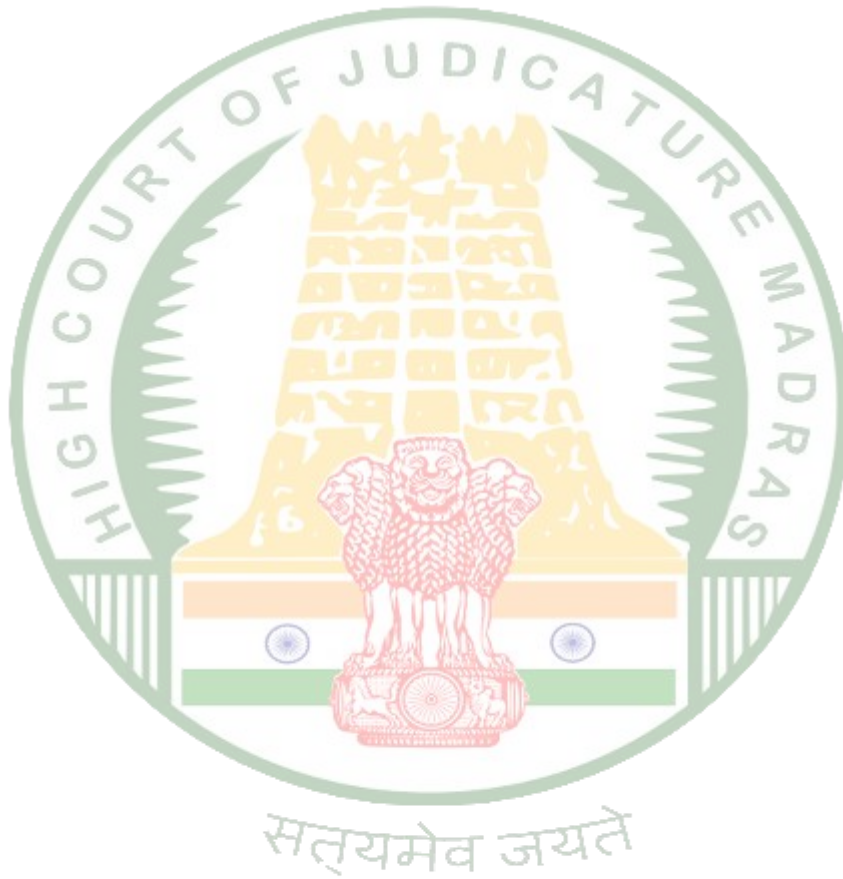
1. The Motor Accident Claims Tribunal,
Additional District Judge-in-Charge,
Fast Track Court No.2
Salem.

2. The Section Officer,
VR Section,
High Court, Madras.

+1 CC to Mr.K. Suryanarayanan, Advocate sr 71574
+1 CC to Mr. P. Jagadeesan, Advocate sr 71945

C.M.A.No.469 of 2007

SJ(CO)
sp/9/6



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