

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2016

CORAM

THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

C.M.A.No.972 of 2002

and

C.M.P.No.7015 of 2002

Oriental Insurance Company Limited,
Dharmapuri Branch,
Dharmapuri Town and Taluk.

.. Appellant/2nd Respondent

.. Vs ..

1.Chinnakannu
2.P.Samayapurathal

.. Respondents/Petitioner

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the judgment and decree dated 30.10.2001 made in M.C.O.P.No.123 of 2001 on the file of the Motor Accidents Claims Tribunal, Additional Special Court, Krishnagiri.

For Appellant : Mr.N.Vijayaraghavan

For Respondents :R1-Service awaited
R2-exparte

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JUDGMENT

This civil miscellaneous appeal is directed against the judgment and decree 30.10.2001 made in M.C.O.P.No.123 of 2001 on the file of the Motor Accidents Claims Tribunal, Additional Special Court, Krishnagiri.

2. The facts of the case are as follows:-

On 17.09.2000 the petitioner and her relatives were engaged the Tempo Van bearing registration No.TN-29A-9927 which belong to first respondent to go to Hogenakkal for a death funeral. After the funeral formalities are over they returned in the Tempo to come to Vellolai. On the way in Dharmapuri to Vellolai Road i.e., west to east near Sengankottai junction road at about 06.00 p.m., due to rash and negligent driving of the Tempo by its driver at great speed dashed behind a cyclist and went out of road on the north and topped down. The first respondent was admitted at Government Headquarters Hospital, Dharmapuri as inpatient. Claiming a sum of Rs.2,00,000/-, the deceased had filed a petition for compensation. The Tribunal, after considering the evidence adduced by both parties, finally awarded a sum of Rs.72,500/- towards compensation and directed the appellant/Oriental Insurance Company Limited, to deposit the said

compensation amount along with interest at the rate of 9% per annum from the date of petition till the date of deposit. Aggrieved against the said award passed by the Tribunal, the present appeal is preferred by the appellant/Oriental Insurance Company Limited.

3. The learned counsel for the appellant/Oriental Insurance Company Limited would mainly contend that the Trial Court erroneously directed the second respondent to pay compensation to the petitioner. The appellant is not at all liable to pay compensation, since, the policy is not covered at the time of accident. In the present case the petitioner/claimant is an unauthorised occupant in the goods vehicle bearing registration No.TN-29A-9927. Hence, the Insurance Company is not liable to pay compensation in this case.

4. The learned counsel for the petitioner has not filed an application for substitute of service as ordered by this Court. The learned counsel for the appellant fairly conceded that he is ready to argue the case in the point of admission.

5. According to the learned counsel for the appellant herein,

this memorandum of grounds of Civil Miscellaneous Appeal has been preferred as against the claim related to an unauthorised occupant in the goods vehicle. The Insurance Company is not liable to pay the compensation and the claim petition was filed on 20.12.2000 and the case was taken as CMA.No.123 of 2001 and the case was disposed by the trial Court on 30.10.2001 and the appeal was filed in the year of 2002.

6. After considering the entire facts and circumstances of the case, the Trial Court finally held that the Insurance Company is liable to pay the compensation to the petitioner and awarded just compensation of Rs.72,500/- with interest.

7. Hence, this Court is of the considered view, the Trial Court after appreciating the entire facts of the case finally awarded just compensation of Rs.72,5000/- and also held that the Insurance Company is liable to pay the compensation to the petitioner. This Court finds there is no illegality or infirmity which warrants any interference by this Court.

8. In the result, the civil miscellaneous appeal is dismissed by confirming the judgment and decree dated 30.10.2001 made in M.C.O.P.No.123 of 2001 on the file of the Motor Accidents Claims Tribunal, Additional Special Court, Krishnagiri. Consequently, the connected miscellaneous petition is closed. No costs.

18.11.2016

Internet : Yes
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To

1. The Additional Special Court,
Krishnagiri.

G.CHOCKALINGAM, J.

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