BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2016

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A.(MD)Nos.1197 to 1199 of 2011
and
M.P.(MD)Nos.1,1 and 1 of 2011

C.M.A.(MD)No.1197 of 2011

The Divisional Manager,
The United India Insurance Company Ltd.,
Madurai. ... Appellant/2nd Respondent

Vs.

1.Saranya ... 1st Respondent/Petitioner

2.Soundaravalliammal ... 2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 03.06.2011 passed in M.A.C.T.O.P.No.1006 of 2007, on the file of the Motor Accidents Claims Tribunal, III Additional Sub Judge, Madurai.

C.M.A.(MD)No.1198 of 2011

The Divisional Manager,
The United India Insurance Company Ltd.,
Madurai. .. Appellant/2nd Respondent

Vs.

1.Meenambal .. 1st Respondent/Petitioner

2.Soundaravalliammal .. 2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 03.06.2011 passed in M.A.C.T.O.P.No.976 of 2007, on the file of the Motor Accidents Claims Tribunal, III Additional Sub Judge, Madurai.

C.M.A.(MD)No.1199 of 2011

The Divisional Manager,
The United India Insurance Company Ltd.,
Madurai. .. Appellant/2nd Respondent

Vs.

1.Saravanan ... 1st Respondent/Petitioner

2.Soundaravalliammal .. 2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 03.06.2011 passed in M.A.C.T.O.P.No.977 of 2007, on the file of the Motor Accidents Claims Tribunal, III Additional Sub Judge, Madurai.

For Appellant in all the CMAs : Mr.N.Muthukani

For Respondents in all CMAs : Mr.K.C.Ramalingam for R.2
:No Appearance for R.1

COMMON JUDGMENT

All the appeals are connected and it is a case of an injury caused in an accident took place on 09.06.2006 at about 09.30 p.m. near Nagari Arockia Palpannai at Vadipatti to Madurai main road. The injured claimants filed applications seeking compensation before the Motor Accidents Claims Tribunal, III Additional Subordinate Judge, Madurai and the Tribunal, considering the facts and circumstances of the case, awarded a sum of Rs.10,000/- in M.C.O.P.No.976 of 2007; Rs.66,757/- in M.C.O.P.No.1006 of 2007, and Rs.10,000/- M.C.O.P.No.977 of 2007.

2. Challenging the same, the appellant United India Insurance Company preferred the present appeals on the ground that the appellant had issued Act only policy, in respect of a vehicle which met with the accident and under the policy, there is no coverage for the occupants who travelled in a private car. Such being the nature of the case, the Insurance Company is not liable to pay any compensation in respect of the occupants in a private car. To prove their point, the appellant marked Ex.R.1- Insurance policy, which is clear that it is Act only policy.

3. The Tribunal, though noted down the nature of policy as Act only policy, had erroneously come to the conclusion that the respondents/claimants are entitled for compensation on the ground

that 6+1 passengers are permitted to travel in the vehicle which met with the accident.

4. It is not a capacity of the vehicle which met with the accident and it is the question of policy under which the claimant can claim compensation under the Motor Vehicles Act. In view of the fact that it is an Act only policy, the third party occupants in a private vehicle are not covered under the policy and accordingly, no compensation shall be paid by the Insurance Company to such persons and the owner of the vehicle alone is liable and responsible to pay compensation in respect of the third party occupants in a private car.

5. The learned Counsel for the second respondent would state that though it is an Act only policy, the capacity of the car was 6+1 and based on that, the Tribunal granted compensation.

6. Such a finding of the Tribunal cannot be accepted in view of the fact that the liability of the appellant Insurance Company shall be fixed only based on the policy taken by the insured and not otherwise, and the compensation has to be ascertained and paid as per the conditions and any violation of the policy conditions, no compensation need to be paid by the appellant Insurance Company. Such being the legal position, this Court is inclined to consider the grounds raised in the present appeals and accordingly, the award passed by the Motor Accidents Claims Tribunal in M.C.O.P.Nos.976, 1006 and 977 of 2007 are hereby set aside and the respondents/claimants are permitted to recover the amount of compensation awarded by the Tribunal from the owner of the vehicle which met with the accident, as per procedure under law.

7. In the result, all the Civil Miscellaneous Appeals are allowed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(Record)

/True copy/

Sub Assistant Registrar

To
The Motor Accidents Claims Tribunal,
III Additional Sub Judge, Madurai.

+3cc to Mr.G.Prabhu Rajadurai, Advocate Sr.No.73661,73662,73663
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C.M.A.(MD)Nos.1197 to 1199 of 2011
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