



For Appellant : Mr.C.Ramachandran
For R - 1&2 : No appearance

3.C.M.A(MD)No.1452 of 2011:-

The Oriental Insurance Company Limited,
Rep. By its Branch Manager,
No.5551/1 Government Hospital Road,
Theni.

.. Appellant/2nd Respondent

-Vs-

1.Chinnasamy

.. Respondent No.1/Petitioner

2.Thirumurugan

.. 2nd Respondent/1st Respondent

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree, dated 29.09.2010 made in M.C.O.P.No.88 of 2010 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Theni.

For Appellant : Mr.C.Ramachandran

For R - 1&2 : No appearance

4.C.M.A(MD)No.1453 of 2011:-

The Oriental Insurance Company Limited,
Rep. By its Branch Manager,
No.5551/1 Government Hospital Road,
Theni.

.. Appellant/2nd Respondent

-Vs-

1.Logamani

.. Respondent No.1/Petitioner

2.Thirumurugan

.. 2nd Respondent/1st Respondent

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree, dated 29.09.2010 made in M.C.O.P.No.89 of 2010 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Theni.

For Appellant : Mr.C.Ramachandran

For R1 & R2 : No appearance

5.C.M.A(MD)No.1454 of 2011:-

The Oriental Insurance Company Limited,
Rep. By its Branch Manager,
No.5551/1 Government Hospital Road,
Theni.

.. Appellant/2nd Respondent



-Vs-

1.Subbuthai

.. Respondent No.1/Petitioner

2.Thirumurugan

.. 2nd Respondent/1st Respondent

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree, dated 29.09.2010 made in M.C.O.P.No.90 of 2010 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Theni.

For Appellant : Mr.C.Ramachandran

For R1 & R2 : No appearance

COMMON JUDGMENT

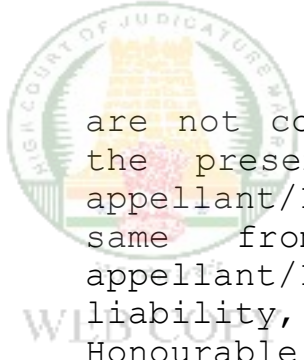
These Civil Miscellaneous Appeals have been preferred against the Judgment and Decree, dated 29.09.2010 made in M.C.O.P.Nos.86, 87, 88, 89 and 90 of 2010 respectively on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Theni.

2.It is a case of an accident, which took place on 31.08.2006 at 04.45 pm., on Sri Rengapuram to Venkatasalapuram.

3.In the above said accident, one Periyathai died and the heirs of the deceased filed an application in M.C.O.P.No.86 of 2010 and the other injured persons filed applications in M.C.O.P.Nos.87, 88, 89 & 90 of 2010 seeking compensation before the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Theni and the Tribunal, after considering the facts and circumstances of the case, awarded a sum of Rs.2,61,000/-, Rs.12,000/-, Rs.12,000/-, Rs.12,000/- and Rs.12,000/- respectively towards total compensation.

4.These appeals were filed by the appellant/Insurance Company on the ground that the vehicle which met with an accident was carrying excessive persons and the five claimants covered under the present appeals were travelling as extra passengers and therefore, they are not covered under the Insurance Policy. Due to the non-coverage of these persons, the appellant/Insurance Company shall be exonerated from the liability.

5.Such an exoneration is not permissible in respect of the victims. Further, in the present case on hand, totally nine persons were travelling in the vehicle, out of which, first four injured persons were covered under the policy and in respect of those four persons, the appellant/Insurance Company paid compensation and therefore, no interference is necessary in respect of those four persons and in respect of other persons, who



are not covered under the policy alone is the subject matter of the present appeals and in respect of these persons, the appellant/Insurance Company is directed to pay and recover the same from the owner of the vehicle. Therefore, the appellant/Insurance Company cannot be totally exonerated from the liability, in view of the settled principles laid down by the Honourable Supreme Court of India in the case of **Oriental Insurance Co.Ltd., Vs. Shri Nanjappan and others, reported in I (2004) ACC 524 (SC)**.

6. Accordingly, this Court is inclined to order pay and recovery in respect of these appeals and the same is ordered. In view of the fact that the Tribunal has already ordered pay and recovery in accordance with the principles laid down by the Honourable Supreme Court of India in the case of **Oriental Insurance Co.Ltd., Vs. Shri Nanjappan and others, reported in I (2004) ACC 524 (SC)**, this Court is not inclined to consider the other grounds raised in these appeals and accordingly, the award passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate, Theni M.C.O.P.Nos.86, 87, 88, 89 and 90 of 2010, dated 29.09.2010 are confirmed and the Civil Miscellaneous Appeals are dismissed.

7. The learned counsel appearing for the appellant/Oriental Insurance Company is directed to deposit the entire award amount along with accrued interest and costs within a period of four weeks from the date of receipt of a copy of this order, if not already deposited.

8. The respondents 1 to 4/claimants 1 to 4 in C.M.A(MD)No.1450 of 2011 are permitted to withdraw the entire award amount along with proportionate interest and costs, as per the ratio of apportionment made by the Tribunal through RTGS by filing necessary application before the Tribunal.

9. The first respondent/claimant in C.M.A(MD)Nos.1451 to 1454 of 2011 are permitted to withdraw the entire award amount along with accrued interest and costs through RTGS by filing necessary application before the Tribunal. No costs. Consequently, connected Miscellaneous Petitions are also closed.

Sd/
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar



To

The Chief Judicial Magistrate,
Motor Accident Claims Tribunal,
Theni.

WEB COPY

Copy to:

The Section officer, V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

C.M.A (MD) Nos.1450, 1451, 1452,
1453, & 1454 of 2011
and

M.P (MD) Nos.3, 2, 2, 2 & 2 of 2011
21.11.2016

ps

SH/RR-ME:25.01.2017:5P/3C