



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.1574 of 2008

Branch Manager,
United India Insurance Company Ltd.,
Branch Office,
Mettur Dam.

..Appellant/2nd Respondent

Vs

1.K.Parasuraman
2.K.S.Lakshmiammal

..Respondents/Petitioner &
1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award passed by the Motor Accidents Claims Tribunal, Sub-Court, Krishnagiri in M.C.O.P.No.723 of 2002 dated 09.02.2005.

For Appellant	: Mr.N.Vijayaraghavan
For Respondents	: Not ready in notice regarding R1 R2 - Set exparte

JUDGEMENT

The instant appeal has been filed by the Insurance Company challenging the Award dated 09.02.2005 passed by the Motor Accidents Claims Tribunal, Sub-Court, Krishnagiri in M.C.O.P.No.723 of 2002.

2.The brief facts leading to the filing of the instant appeal are as follows:

(i)The first respondent sustained injuries on 28.08.1998, as a result of an accident caused by a lorry bearing Registration No.TN-45-B-3965 owned by the second respondent and insured with the Appellant. The first respondent preferred a claim before the Motor Accidents Claims Tribunal in M.C.O.P.No.723 of 2002, seeking a compensation of Rs.7,20,000/- which was restricted to Rs.50,000/-.

(ii) The Motor Accidents Claims Tribunal, by its Award dated 09.02.2005 in M.C.O.P.No.723 of 2002 directed the Appellant to pay the first respondent a sum of Rs.9,000/- together with interest at the rate of 9% per annum from the date of claim till the date of realisation.



3. Aggrieved by the Award dated 09.02.2005 in M.C.O.P.No.723 of 2002, the instant appeal has been filed by the Insurance Company.

4. Heard, Mr.N.Vijayaraghavan, learned Counsel for the Appellant. Till date notice has not been served on the respondents. Since the appeal relates to the year 2005 and this Court is going to confirm the Award, there is no necessity to serve the notice in this appeal on the respondents.

5. According to the learned counsel for the Appellant, the respondent was travelling in a lorry as a gratuitous passenger and therefore they are not liable to compensate the claim of the first respondent.

6. This Court has examined the Award and finds that the Appellant has not been able to establish before the Tribunal that the first respondent was a gratuitous passenger.

7. The claim of the first respondent was that he was a labourer employed by the second respondent and while he was travelling in the lorry insured with the Appellant, he met with an accident resulting in injuries to him. The nature of injuries sustained by the first respondent has also not been disputed by the Appellant before the Tribunal.

8. Sufficient premium has also been paid by the second respondent to the Appellant for covering 'non fare paying passengers'.

9. Therefore, in the considered view of this Court, there is no merit in the instant appeal. Accordingly, the Civil Miscellaneous Appeal is dismissed. No Costs. Consequently the Connected Miscellaneous Petition No.1 of 2008 is closed.

10. It is represented that entire award amount has already been deposited by the Appellant. The first respondent is permitted to withdraw the amount lying to the credit of M.C.O.P.No.723 of 2002 by filing an appropriate application.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar



To

1.Motor Accidents Claims Tribunal,
Subordinate Judge,
Krishnagiri.

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

+ 1 cc to M/s. M.B. Gopalan, Advocate Sr.65610

C.M.A.No.1574 of 2008

(CO) SAI
EU(08/11/2018)