

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.11.2018

CORAM

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

CMA.Nos.1115 to 1120 & 2781 of 2018

Kanniyammal ... Appellant/Petitioner in CMA 1115/2018  
Janaki ...Appellant /Petitioner in CMA 1116/2018  
Minor Kanakaraj (aged 12 years)  
rep by Next friend and Guardian  
Muthuvel .... Appellant/Petitioner in CMA 1117/2018  
Periyasami .... Appellant/Petitioner in CMA 1118/2018

1.C.Periyasamy  
2.Sankara  
3.Lakshmi .... Appellant/Petitioner in CMA 1119/2018

Minor Parimala  
D/O Periyasamy  
(Minor Rep by her father  
and next friend Periyasamy)  
.... Appellant/Petitioner in CMA 1120/2018

Minor Ashok kumar  
S/O Selvam  
(Minor Rep by his Mother and next friend)  
.... Appellant/Petitioner in CMA 2781/2018  
Vs

1.M.Mohan

2.The New India Assurance Co. Ltd,  
Rasipuram,  
Salem District. ... Respondents/Respondents in CMA 1115 to  
1118 of 2018 and CMA 1120 & 2781/18

3.Aroyee ... 3<sup>rd</sup> Respondent in CMA 1119 of 2018

Prayer : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act 1988, against the Judgment and Decree dated 25.10.2002 made in M.C.O.P.No.89 to 95 of 2002 on the file of the Motor Accident Claims Tribunal ( Fast Track Court - III), Namakkal.  
and batch

For Appellant : Mr.D.Shivakumaran(in all CMA's)  
For Respondent : No Appearance (in all CMA's  
No.1

For Respondent : Mr.J.Chandran(in all CMA's)  
No.2  
For 3<sup>rd</sup> Respondent:No Appearance in CMA 1119/18

#### COMMON JUDGMENT

These Civil Miscellaneous Appeals have been filed against the Judgments and Decrees dated 25.10.2002 made in M.C.O.P.Nos.89, 90, 91, 92, 93, 95 & 94 of 2002 respectively on the file of the Motor Accident Claims Tribunal ( Fast Track Court -III), Namakkal.

2.All the appeals are arising out of the same accident and hence, they are disposed of by this common judgment.

3.All the appeals are filed by the claimants challenging the portion of the award exonerating the Insurance company from its liability and for enhancement of compensation.

4.The learned counsel appearing for the appellants/claimants contended that the Tribunal, without considering the evidence properly, exonerated the second respondent / Insurance Company from its liability. The appellants have examined the Doctor and proved the nature of the injuries sustained by them. The Tribunal, taking note of the injuries, failed to award proper compensation. The amounts awarded by the Tribunal under the different heads are meager and prayed for enhancement of compensation and fixing the liability on the second respondent / Insurance Company.

5.Per contra, the learned counsel appearing for the second respondent/Insurance company contended that the appellants and others travelled in the Lorry to Palani to worship Murugan Temple and while they were returning from the temple, the accident occurred. The appellants have not proved that they are load men and they are only authorised passengers. The Tribunal, considering the pleadings and evidence, has rightly exonerated the insurance company from its liability and prayed for dismissal of the appeals.

6.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the second respondent and perused the materials available on record.

7.From the materials on record, it is seen that the appellants in all the appeals and others travelled in the lorry, which is a goods carrier. It is an admitted fact that the appellants and others travelled in the lorry to worship in Murugan temple at Palani and while returning from the temple, the accident occurred. It is not a case of the appellants that they are the employees of the first respondent and that they travelled as loadmen. RW1. has deposed that the policy taken by the first respondent is Act Policy and it covers only driver and cleaner of the vehicle. It does not cover even loadman, who travel in the Lorry. The appellants have not let in any evidence to show that the policy taken by the first respondent covers not only the driver and cleaner but, other passengers. In such circumstances, the Tribunal has rightly exonerated the second respondent insurance company from its liability. There is no reason in the said findings of the Tribunal warranting interference by this Court.

8.As far as the quantum of compensation is concerned, the Tribunal has considered the evidence of doctor, nature of the injuries and documents filed by the parties and awarded compensation to the appellants. The amounts awarded by the Tribunal are not meagre and hence the same is confirmed.

In the result, this Civil Miscellaneous Appeals are dismissed confirming the award passed by the Tribunal. No costs. Consequently, connected Miscellaneous Petitions, if any, are closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal  
( Fast Track Court -III), Namakkal.

2.The Section Officer,  
VR Section, High Court, Madras-104.

+1cc to Mr.J.Chandran, Advocate sr.79916

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2018

gmr[co]  
srg 28/01/2019