

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3774 of 2008

and

M.P.No.1 of 2008

The Oriental Insurance Company Ltd,
Rep.by Branch Manager
Dharmapuri Branch
Post Box No.19-3L,
Siddhaveerappa Chetty Street,
Dharmapuri District.

....Appellant

Vs

1. Soodappan
2. Subramani
3. Raman
4. National Insurance Company Ltd,
Rep.by Branch Manager
Dharmapuri Branch
88, Bye-Pass Road,
Dharmapuri.
5. Murugan
(Sl.Nos.2 to 5 set exparte in the lower Court)

....Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Award passed by the Motor Accident Claims Tribunal, (Principal District Judge), Krishnagiri, Dharmapuri Districts in M.C.O.P.No.623 of 2001 dated 16.02.2006.

For Appellant	:	Ms.R.Sreevidhya
For Respondents	:	R1-served- No Appearance R2, R3 & R5 - set exparte Mr.D.Bhaskaran for R4

JUDGMENT

The instant appeal has been filed by the Insurance Company challenging the Award dated 16.02.2006 passed by the Motor Accident Claims Tribunal, (Principal District Judge), Krishnagiri, Dharmapuri Districts in M.C.O.P.No.623 of 2001.

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

(i) The first respondent sustained injuries as a result of an accident caused by a Tractor bearing Registration No.TN-29-C-1420 which was connected to a Trailor bearing Registration No.TN-27-Y-7136. The tractor was insured with the Appellant and the Trailor was insured with the fourth respondent.

(ii) The first respondent preferred a claim before the Motor Accident Claims Tribunal in M.C.O.P.No.623 of 2001 seeking a compensation of Rs.2,00,000/- from the Appellant and the fourth respondent Insurance Company as well as the respective owners. The Motor Accident Claims Tribunal by its Award dated 16.02.2006 passed in M.C.O.P.No.623 of 2001 exonerated the liability of the fourth respondent and directed the Appellant to pay the first respondent a sum of Rs.27,500/- together with interest at the rate of 7.5% per annum from the date of claim till the date of the realisation.

(iii) Aggrieved by the Award dated 16.02.2006 passed by the Motor Accident Claims Tribunal in M.C.O.P.No.623 of 2001, the instant appeal has been filed by the Appellant Insurance Company.

3. Heard, Ms.R.Sreevidhya, learned Counsel for the Appellant and Mr.D.Bhaskaran, learned Counsel for the fourth respondent. Despite service of notice on the remaining respondents and their names having been printed in the cause list today, none appears on their behalf.

4. According to the learned Counsel for the Appellant, the Tribunal has erroneously not attributed any contributory negligence on the part of the second respondent, the owner of the trailor and the fourth respondent its insurer.

5. In another claim arising out of the same accident, wherein, the claimant was a coolie, the same Tribunal has passed an Award dated 29.12.2006 in M.C.O.P.No.376 of 2001 against the Appellant herein. Aggrieved against which, the appellant herein has preferred CRP.No.3467 of 2010 before this Court.

6. By an order dated, 18.09.2013, this Court in CRP.No.3467 of 2010 confirmed the Award passed in M.C.O.P.No.376 of 2001.

7. Since the instant appeal also arises out of the same accident and the nature of the claim and the avocation of the claimant is also similar, this Court also confirms the Award dated 16.02.2006 passed by the Motor Accident Claims Tribunal in M.C.O.P.No.623 of 2001.

8. Accordingly, there is no merit in the instant appeal and the Civil Miscellaneous Appeal is dismissed. Consequently, the connected Miscellaneous Petition No.1 of 2008 is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

arb/msr

To

1. Motor Accident Claims Tribunal,
(Principal District Judge),
Krishnagiri, Dharmapuri Districts.

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

+1cc to M/s.R.Sreevidya, Advocate sr.no.65265

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