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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.09.2018

CORAM:

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

C.M.A.(MD)No.888 of 2018 and
C.M.P(MD)No.9669 of 2018

Reliance General Insurance Company Ltd.,
First Floor, Gee Jay Arcade,
141/71, T.V.Swami Road West,
R.S.Puram, Coimbatore-641 002. ... Appellant/2nd Respondent

**Vs.**

1.Mookusamy ... Respondent No.1/Petitioner
2.N.Murugesan ... Respondent No.2/
Respondent No.1

**PRAYER:** Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award, dated 26.11.2015 passed in M.C.O.P.No.1535 of 2008, on the file of the III Additional Subordinate Judge (Motor Accidents Claims Tribunal), Thiruchirappalli.

For Appellant : Mr.V.Sakthivel

**JUDGMENT**

This Civil Miscellaneous Appeal has been filed by the appellant-Insurance Company against the award, dated 26.11.2015, made in M.C.O.P.No.1535 of 2008, passed by the III Additional Subordinate Judge (Motor Accident Claims Tribunal), Thiruchirappalli.

2.The appellant is the second respondent in the claim petition in M.C.O.P.No.1535 of 2008, on the file of the Motor Accident Claims Tribunal (III Additional Subordinate Judge), Thiruchirappalli. The first respondent/claimant filed claim petition claiming a sum of Rs.2,00,000/- (Rupees Two Lakhs only) as compensation for the injuries suffered by him, in the accident that occurred on 12.09.2007.

3.The appellant Insurance Company filed counter statement and denied the accident as alleged by the claimant. The learned counsel appearing for the appellant contended that the claimant is unauthorized passenger. The claimant has to prove the age, occupation and income and prayed for dismissal of the claim petition.

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4.The Tribunal considering the pleadings, oral and documentary evidence, held that the accident occurred only due to rash and negligent driving by driver of the first respondent and awarded compensation.

5.Aggrieved by the said award, the appellant has come out with the present appeal.

6.The learned counsel appearing for the appellant contended that the first respondent is an unauthorised passenger. Apart from the first respondent, 20 other persons travelled in the goods vehicle. The first respondent has violated the policy conditions.

7.I have heard the learned counsel appearing for the appellant and perused the materials available on record.

8.The contention of the learned counsel appearing for the appellant/Insurance Company is that the Tribunal failed to note that apart from the first respondent, 20 other persons were travelled in the goods vehicle and erred in holding that the accident occurred due to the negligence on the part of the driver of the lorry. The Tribunal failed to note that there is no coverage for persons in a goods vehicle other than those connected with the vehicle. The Tribunal considering the above contention of the learned counsel for the appellant, rejected the same by giving cogent and valid reason by holding that the accident occurred only due to the negligence on the part of the driver of the lorry. The first respondent had pleaded and deposed that he travelled as owner of goods and in the accident goods worth Rs.50,000/- was damaged. The appellant failed to disprove the said contention of first respondent. The reason given by the Tribunal is valid. Hence, this Court is not inclined to interfere with the said findings.

9.In the result, the Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal is confirmed. The appellant/Insurance Company is directed to deposit the compensation amount awarded by the Tribunal to the credit of M.C.O.P.No.1535 of 2008, on the file of Motor Accident Claims Tribunal/III Additional Sub Court, Tiruchirappalli, less the amount already deposited, if any, along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit, the claimant is permitted to withdraw the said amount by filing necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (T&P)

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Sub Assistant Registrar (CS-II)

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**To**

1. The III Additional Subordinate Judge,
   (Motor Accidents Claims Tribunal),
   Thiruchirappalli.

2. The Record Keeper,
   V.R.Section,
   Madurai Bench of Madras High Court,
   Madurai. (2 Copies)

AM
TE/RSK/SAR-2 : 09/01/2019 : 3P/4C

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