



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:08.02.2018

CORAM :

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THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.R.P. (NPD) (MD) Nos.211 to 218 of 2011

and

M.P. (MD) Nos.1,1,1,1,1,1,1 and 1, of 2011

Divisional Manager,
United India Insurance Company Limited,
91, Kamarajar Salai,
Madurai.

... Petitioner/2nd Respondent
(In all Petitions)

vs.

Thiru.A.Ayyavoo

... Ist Respondent/Petitioner
in C.R.P. (MD) No.211 of 2011

Thiru.Andichi

... Ist Respondent/Petitioner
in C.R.P. (MD) No.212 of 2011

Veeranan Kalai

... Ist Respondent/Petitioner
in C.R.P. (MD) No.213 of 2011

Tmt.Ayyammal

... Ist Respondent/Petitioner
in C.R.P. (MD) No.214 of 2011

Thiru.Kaathi

... Ist Respondent/Petitioner
in C.R.P. (MD) No.215 of 2011

Thiru.Chinnayan

... Ist Respondent/Petitioner
in C.R.P. (MD) No.216 of 2011

Thiru.Andisamy

... Ist Respondent/Petitioner
in C.R.P. (MD) No.217 of 2011

Minor.Karuppayee

... Ist Respondent/Petitioner
in C.R.P. (MD) No.218 of 2011

(Minor respondent through his father
and next friend Ambalam)

2.Mr.R.Thirugnanam

... 2nd Respondent/1st Respondent
(In all Petitions)

COMMON PRAYER: Petitions filed under Act 227 of the Constitution of India, against the fair and executable order passed in M.C.O.P.Nos.1322, 1323, 1324, 1326, 1328, 2763, 2764 and 2765 of 2002 dated 07.10.2010 on the file of the Motor Accident Claims Tribunal cum IV Additional Sub Judge, Madurai.

For Petitioners
<https://hcservices.ecourts.gov.in/hcservices/>
For Respondent

: Mr.C.Jawarhar Ravindran
: No Appearance
(In all Petitions)

COMMON ORDER

These Civil Revision Petitions are filed against the fair and executable order passed in M.C.O.P.Nos.1322,1323, 1324, 1326, 1328, 2763, 2764 and 2765 of 2002 dated 07.10.2010 on the file of the Motor Accident Claims Tribunal cum IV Additional Sub Judge, Madurai.

2.The Tribunal after considering the nature and circumstance of the case has given a finding that on humanitarian ground a meagre amount of compensation can be granted to the petitioners. The said compensation has been fixed as sum of Rs.5,000/-.

3.It is also observed by the Tribunal that the vehicle is properly insured with the second respondent in the claim petition and it has full coverage. The first respondent in the claim petition is the owner of the vehicle involved in the said accident. The Tribunal has ordered that both the respondents are jointly liable for the accident and hence, the second respondent is liable to pay the compensation. Against the said order, these Civil Revision Petitions have been preferred.

4.According to the learned counsel for the Insurance Company, the award of compensation on humanitarian ground is not sustainable. The second respondent/petitioner herein is not liable to pay any compensation which has been wrongly ordered. Though, it is found by the Tribunal that the first respondent vehicle is duly insured with the second respondent Insurance Company and that it has also full coverage, it is clear from the records filed along with the claim applications that the claimants did not travel in the first respondent goods vehicle namely Mini Van as the owner of the goods. Only to make unlawful gain it has been stated by them like that.

5.On perusal, it is learnt that persons were traveling in the first respondent Mini Van goods vehicle, which is against the permit condition of the Original Transport Authority. Hence, the petitioners wantonly terminated the valid permit given under the Motor Vehicle Act, for which, the respondent Insurance Company is not liable. In view of the clear violation of the policy condition the order of the Tribunal that both the respondents are jointly held liable cannot be required one.

6.Considering the facts that the claimants were traveling in the goods vehicle for which the Insurance Company is not liable to pay compensation on any ground and the first respondent, who is the owner of the vehicle, allowed the passengers in the goods vehicle, is liable to pay the compensation as ordered by the Tribunal on humanitarian ground as sum of Rs.5,000/- to each petitioner. The Tribunal is directed to return the amount deposited by the Insurance Company



7.The Civil Revision Petitions are disposed of with the modification that only the first respondent/owner of the vehicle is liable to pay the compensation. No costs. Consequently connected Miscellaneous petitions are closed.

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Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal
cum IV Additional Sub Judge,
Madurai.

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

+1cc to M/S.C.Jawarhar Ravindran, Advocate SR.No. 47038

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and
M.P. (MD) Nos.1,1,1,1,1,1,1 and 1, of 2011

dss

JM/SV MMS/SAR 4/11.06.2018/3P/5C