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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.1381 to 1389 of 2006,
CMA No.1510 of 2006 and C.M.P.No.6760 of 2006
and C.M.A.Nos.1551 to 1559 of 2006

The Oriental Insurance Company Ltd.,
Branch Office, P.B.No.30, Gobichettipalayam 638452
Gobi Taluk. ... Appellant in all the appeals

Vs

1.Ayyammal

2.S.M.Gobal

3.S.Muthusamy ... Respondents in C.M.A.No.
1381 of 2006

1.Agilandam

2.S.M.Gobal

3.S.Muthusamy ... Respondents in C.M.A.No.
1382 of 2006

1.Lakshmi, W/o.Kumarasamy

2.S.M.Gobal

3.S.Muthusamy ... Respondents in C.M.A.No.
1383 of 2006

1.Arayer

2.S.M.Gobal

3.S.Muthusamy ... Respondents in C.M.A.No.
1384 of 2006



1.Perumayee

2.S.M.Gobal

3.S.Muthusamy

... Respondents in C.M.A.No.
1385 of 2006

1.Sarasu

2.S.M.Gobal

3.S.Muthusamy

... Respondents in C.M.A.No.
1386 of 2006

1.Lakshmi, W/o.Sengottaiyan

2.S.M.Gobal

3.S.Muthusamy

... Respondents in C.M.A.No.
1387 of 2006

1.Radhamani

2.S.M.Gobal

3.S.Muthusamy

... Respondents in C.M.A.No.
1388 of 2006

1.Arumani

2.S.M.Gobal

3.S.Muthusamy

... Respondents in C.M.A.No.
1389 of 2006

1.Eswari, W/o.Sengottaiyan

2.S.M.Gobal

3.S.Muthusamy

... Respondents in C.M.A.No.
1510 of 2006

1.Vellachi @ Muthayee

2.S.M.Gobal

3.S.Muthusamy

... Respondents in C.M.A.No.
1551 of 2006



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1.Rukkumani

2.S.M.Gobal

3.S.Muthusamy

... Respondents in C.M.A.No.
1552 of 2006

1.Alamelu

2.S.M.Gobal

3.S.Muthusamy

... Respondents in C.M.A.No.
1553 of 2006

1.Veerammal

2.S.M.Gobal

3.S.Muthusamy

... Respondents in C.M.A.No.
1554 of 2006

1.Soodamani

2.S.M.Gobal

3.S.Muthusamy

... Respondents in C.M.A.No.
1555 of 2006

1.Pavayee

2.S.M.Gobal

3.S.Muthusamy

... Respondents in C.M.A.No.
1556 of 2006

1.Eswari, W/o.Perumal

2.S.M.Gobal

3.S.Muthusamy

... Respondents in C.M.A.No.
1557 of 2006

1.Sarasal

2.S.M.Gobal

3.S.Muthusamy

... Respondents in C.M.A.No.
1558 of 2006



1.Selvi @ Mariammal

2.S.M.Gobal

3.S.Muthusamy

... Respondents in C.M.A.No.
1559 of 2006

C.M.A.No.1381 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.01.2004 made in MACTOP No.86 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.IV, Erode at Bhavani.

C.M.A.No.1382 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.01.2004 made in MACTOP No.87 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.IV, Erode at Bhavani.

C.M.A.No.1383 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.01.2004 made in MACTOP No.90 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.IV, Erode at Bhavani.

C.M.A.No.1384 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.01.2004 made in MACTOP No.91 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.IV, Erode at Bhavani.

C.M.A.No.1385 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.01.2004 made in MACTOP No.92 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.IV, Erode at Bhavani.

C.M.A.No.1386 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.01.2004 made in MACTOP No.93 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.IV, Erode at Bhavani.

C.M.A.No.1387 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.01.2004 made in MACTOP No.96 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.IV, Erode at Bhavani.



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C.M.A.No.1388 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.01.2004 made in MACTOP No.98 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.IV, Erode at Bhavani.

C.M.A.No.1389 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.01.2004 made in MACTOP No.100 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.IV, Erode at Bhavani.

C.M.A.No.1510 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.01.2004 made in MACTOP No.89 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.IV, Erode at Bhavani.

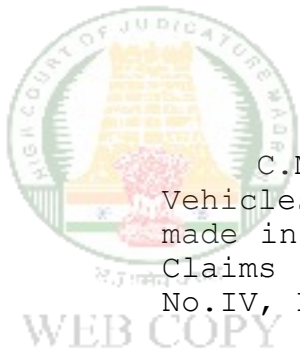
C.M.A.No.1551 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.01.2004 made in MACTOP No.88 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.IV, Erode at Bhavani.

C.M.A.No.1552 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.01.2004 made in MACTOP No.94 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.IV, Erode at Bhavani.

C.M.A.No.1553 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.01.2004 made in MACTOP No.95 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.IV, Erode at Bhavani.

C.M.A.No.1554 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.01.2004 made in MACTOP No.97 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.IV, Erode at Bhavani.

C.M.A.No.1555 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.01.2004 made in MACTOP No.99 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.IV, Erode at Bhavani.



C.M.A.No.1556 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.01.2004 made in MACTOP No.101 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.IV, Erode at Bhavani.

C.M.A.No.1557 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.01.2004 made in MACTOP No.102 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.IV, Erode at Bhavani.

C.M.A.No.1558 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.01.2004 made in MACTOP No.103 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.IV, Erode at Bhavani.

C.M.A.No.1559 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 30.01.2004 made in MACTOP No.104 of 2004 on the file of the Motor Accidents Claims Tribunal, Additional District Judge, Fast Track Court No.IV, Erode at Bhavani.

For Appellant : Mr.M.Krishnamoorthy
in all the appeals

For Respondents : Mr.P.Murugamanickam for R1
in all the appeals No appearance for R3

COMMON JUDGMENT

Claim petitions have been filed by the claimants / injured / first respondent in these appeals, before the Tribunal, claiming compensation for the injuries suffered by them, in an accident that took place on 27.01.2001 at about 5.30 p.m., while travelling in the Minidor vehicle bearing Reg.No.TN-33P-T-256, which was insured with the appellant herein. The first respondent in the appeals is the driver and the second respondent in the appeals is the owner of the vehicle. The Tribunal, by judgments dated 20.01.2004, after framing issues, recording evidence, marking documents and relying upon the decisions by both sides, awarded the following compensation amounts to the injured holding that the first and second respondents (driver and owner of the vehicle) are liable to pay the compensation and exonerating the Insurance Company from the liability, but directed the Insurance Company to pay for compensation initially and get it reimbursed from the first and second respondents.



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CMA No.	MCOP No.	Total Compensation (Rs.)
1381/2006	86/2004	1,01,000/-
1382/2006	87/2004	1,00,500/-
1383/2006	90/2004	93,500/-
1384/2006	91/2004	1,05,500/-
1385/2006	92/2004	96,500/-
1386/2006	93/2004	93,000/-
1387/2006	96/2004	97,000/-
1388/2006	98/2004	20,000/-
1389/2006	100/2004	1,11,500/-
1510/2006	89/2004	94,000/-
1551/2006	88/2004	50,000/-
1552/2006	94/2004	92,500/-
1553/2006	95/2004	20,000/-
1554/2006	97/2004	97,000/-
1555/2006	99/2004	1,08,500/-
1556/2006	101/2004	1,01,900/-
1557/2006	102/2004	90,000/-
1558/2006	103/2004	90,000/-
1559/2006	104/2004	20,000/-

These amounts have been awarded with interest at the rate of 9% per annum from the respective dates of claim petitions.

2.The learned counsel appearing for the Insurance Company / appellant herein submitted that the injured travelled in the Goods Carrying Vehicle as passengers and hence, the Insurance Company cannot be fastened with the liability to pay the compensation initially. The learned counsel further submitted that the Tribunal ought to have followed the decision reported in 2003 ACJ 1 [New India Assurance Co. Ltd., Vs. Asha Rani] and dismissed the Claim Petitions, since as per the permit, insurance policy conditions and the Motor Vehicles Act, goods vehicles shall be used to carry goods only and the same are prohibited to transport passengers.

3.The learned counsel appearing for the claimants / first respondent in these appeals, submitted that the awards passed by the Tribunal are based on evidence available on records and are perfectly justified and thus, the same does not warrant any interference in the hands of this Court.



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"52. In fine, all the Appeals will stand allowed only in respect of the question of liability of the Insurance Company to pay the compensation. The quantum of compensation is affirmed and there will be an award only against the owner of the vehicle., viz., the first respondent in all the Original Petitions and the Award against the Insurance Company will stand set-aside. However, in view of the fact that the claimants are not before us, we do not impose any costs."

10.Suffice to point out that the said decisions squarely apply to the facts of the case on hand. In this case, it is the admitted case of both sides that the accident had taken place on 27.01.2001. Hence, it is crystal clear that the Insurance Company is liable to pay and recover the compensation amounts from the insured. Hence, the contention of the appellant herein is nullified.

11.In the case on hand, the Tribunal, with elaborate reasonings, has awarded the compensation amounts, stated supra, for the injuries sustained by the injured / claimants. The reasonings recorded by the Tribunal are based on probabilities and weight of evidence, which in the opinion of this Court, are perfectly justified. Hence, the findings of the Tribunal are confirmed as such. The compensation amounts awarded by the Tribunal along with interests and costs are hereby confirmed.

12.In the result, these Civil Miscellaneous Appeals, filed by the Insurance Company, are dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

13.The appellant-Insurance Company is directed to deposit the award amounts along with interests and costs, less the amounts already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposits being made, the Tribunal shall transfer the amount to the Savings Bank Account of the claimants / injured / first respondent herein through RTGS.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

KM



To

1. The Motor Accidents Claims Tribunal
Additional District Judge, Fast Track Court No.IV,
Erode at Bhavani.

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

+19 ccs to Mr.V.Rajesh, Advocate, S.R.No.61551 to 61569

C.M.A.Nos.1381 to 1389
of 2006,
CMA No.1510 of 2006 and
C.M.P.No.6760 of 2006
and
C.M.A.Nos.1551 to 1559 of 2006

CNR (CO)
SSM(31/10/2019)