IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.3926 and 3927 of 2005
and C.M.P.Nos.19443 and 19444 of 2005

M/s.United India Insurance Co.Ltd.,
Door No.10/58, G.R.N. 1st Main Road, 1st Floor,
Anna Nagar, Chennai.
Branch Office, 104-A, Peramanur Main Road,
Peramanur, Salem-7. ... Appellant in both appeals / 2nd Respondent

Vs

Veerammal ... 1st respondent in CMA No. 3926 of 2005 / Petitioner

K.Periyannan ... 1st respondent in CMA No. 3927 of 2005 / Petitioner

P.M.Murali Prakash

(2nd respondent ex-parte before Lower Court and hence notice may be dispensed with). ... 2nd respondent in both CMAs / 1st Respondent

Appeals under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 02.08.2005 made in MCOP Nos.94 and 95 of 2004 on the file of the Motor Accidents Claims Tribunal, Addl.District Court, Fast Track Court No.2, Salem.

For Appellant in both appeals : Mr.N.Vijayaraghavan

For 1st respondent in each of the Appeals : Mr.SP.Yuvaraj

COMMON JUDGMENT

These appeals have been filed by the Insurance Company against the judgment and decree dated 02.08.2005 made in MCOP Nos.94 and 95 of 2004 on the file of the Motor Accidents Claims Tribunal, Addl.District Court, Fast Track Court No.2, Salem.

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2.The facts of the case would run thus:

On 19.09.2003, the first respondent in CMA No.3926 of 2005 and her husband (the first respondent in CMA No.3927 of 2005) engaged an Eicher Mitsubishi Lorry bearing Regn.No.TN-02-J-7900 to take their household articles from Krishnapuram to Chennai via Attur. They were sitting in the cabin nearby the driver. On 20.09.2003, at about 5.30 p.m., when the vehicle was proceeding near India Today Office, Opp.to Thomson Company at Maraimalainagar, the driver drove the vehicle in a rash and negligent manner, due to which the vehicle toppled on the left side of the road and hit against a tree. Due to the said impact, the first respondent in both these CMAs sustained injuries. They filed claim petitions before the Tribunal. The Tribunal awarded a sum of Rs.66,000/- with interest at 7.5% per annum from the date of petition, each to the claimants.

3.Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeals.

4.The learned counsel for the appellant has submitted that the Tribunal has erred in holding the appellant liable in a case where the claimants were travelling in the goods vehicle, when such persons are not entitled to travel in the vehicle nor required to be covered under the Motor Vehicles Act. He further submitted that the Tribunal ought to have exonerated the appellant on the ground that there was gross violation of policy conditions by carriage of 15 passengers in the goods vehicle.

5.The learned counsel for the first respondent in these appeals, has submitted that the judgment and decree passed by the Tribunal need not be interfered with, as the Tribunal has taken note of all the points raised and has rightly passed the judgment. He also submitted that the compensation awarded is just and reasonable.

6.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

7.The main point urged by the learned counsel for the appellant is that the terms and conditions of the insurance policy have not been complied with by the respondents. This aspect has been properly analysed by the Tribunal. After considering the witnesses and evidences adduced, the Tribunal has observed that even as per the Policy as well as the cross-examination of R.W.1, it is seen that 6 persons and one labourer have been insured for loading and unloading the goods and that as per the Policy, three persons can travel in the van including the driver, cleaner and the owner of the goods. The Tribunal has considered the issue in proper perspective and came to the

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conclusion that the Policy Conditions have not been violated. This Court is not inclined to interfere with the said finding.

8.In view of the above stated circumstances, the Civil Miscellaneous Appeals are dismissed, confirming the impugned judgment and decree passed by the Tribunal. No costs. Consequently, the connected miscellaneous petitions are closed.

9.The appellant Insurance Company is directed to deposit the award amounts as ordered by the Tribunal with interest, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Motor Accidents Claims Tribunal
   Addl.District Court, Fast Track Court No.2,
   Salem.

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

+1 cc to Mr.M.B.Gopalan, Advocate, S.R.No.46496, 46497 dated
10.06.2019 in CMA No.3926 and 3927 of 2005.

+1 cc to Mr.S.P.Yuaraj, Advocate, S.R.No.45524

C.M.A.Nos.3926 and 3927 of 2005
C.M.P.Nos.19443 and 19444 of 2005

PM(CO)
SSM(07/11/2019)

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