



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :25.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CMA Nos.1652 to 1658 of 2011

and

CMA Nos. 836, 927 to 932 of 2011

M.P.No. 1 of 2011(14)

CMA No.1652 of 2011:

The Divisional Manager,
United India Insurance Company Ltd.,
No.46, Katpadi Salai, Vellore .. Appellant/2nd Respondent

Versus

1. Pitchaikari

2. Kumari .. Respondents / Petitioner /
1st Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the award and decree dated 18.10.2010 made in O.P.No.191 of 2007 on the file of the Motor Accidents Claims Tribunal(Chief Judicial Magistrate Court), Thiruvannamalai.

CMA No.1653 of 2011:

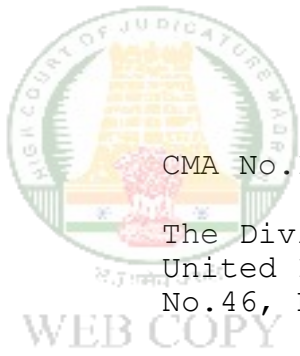
The Divisional Manager,
United India Insurance Company Ltd.,
No.46, Katpadi Salai, Vellore .. Appellant/2nd Respondent

Versus

1. Chinnakannu

2. Kumari .. Respondents / Petitioner /
1st Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the award and decree dated 18.10.2010 made in O.P.No.192 of 2007 on the file of the Motor Accidents Claims Tribunal(Chief Judicial Magistrate Court), Thiruvannamalai.



CMA No.1654 of 2011:

The Divisional Manager,
United India Insurance Company Ltd.,
No.46, Katpadi Salai, Vellore .. Appellant/2nd Respondent

Versus

1. Kanniammal

2. Kumari .. Respondents / Petitioner /
1st Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the award and decree dated 18.10.2010 made in O.P.No.193 of 2007 on the file of the Motor Accidents Claims Tribunal(Chief Judicial Magistrate Court), Thiruvannamalai.

CMA No.1655 of 2011:

The Divisional Manager,
United India Insurance Company Ltd.,
No.46, Katpadi Salai, Vellore .. Appellant/2nd Respondent

Versus

1. Jayakodi

2. Kumari .. Respondents / Petitioner /
1st Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the award and decree dated 18.10.2010 made in O.P.No.197 of 2007 on the file of the Motor Accidents Claims Tribunal(Chief Judicial Magistrate Court), Thiruvannamalai.

CMA No.1656 of 2011:

The Divisional Manager,
United India Insurance Company Ltd.,
No.46, Katpadi Salai, Vellore .. Appellant/2nd Respondent

Versus

1. Chinnasamy

2. Kumari .. Respondents / Petitioner /
1st Respondent



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Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the award and decree dated 18.10.2010 made in O.P.No.198 of 2007 on the file of the Motor Accidents Claims Tribunal(Chief Judicial Magistrate Court), Thiruvannamalai.

CMA No.1657 of 2011:

The Divisional Manager,
United India Insurance Company Ltd.,
No.46, Katpadi Salai, Vellore .. Appellant/2nd Respondent

Versus

1. Subramani

2. Kumari .. Respondents / Petitioner /
1st Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the award and decree dated 18.10.2010 made in O.P.No.199 of 2007 on the file of the Motor Accidents Claims Tribunal(Chief Judicial Magistrate Court), Thiruvannamalai.

CMA No.1658 of 2011:

The Divisional Manager,
United India Insurance Company Ltd.,
No.46, Katpadi Salai, Vellore .. Appellant/2nd Respondent

Versus

1. Kannan

2. Kumari .. Respondents / Petitioner /
1st Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the award and decree dated 18.10.2010 made in O.P.No.201 of 2007 on the file of the Motor Accidents Claims Tribunal(Chief Judicial Magistrate Court), Thiruvannamalai.

CMA No.836 of 2011:

The Divisional Manager,
United India Insurance Company Ltd.,
No.46, Katpadi Salai, Vellore .. Appellant/2nd Respondent



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Versus

1. Manickkam

2. Kumari

.. Respondents / Petitioner /
1st Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the award and decree dated 18.10.2010 made in O.P.No.176 of 2007 on the file of the Motor Accidents Claims Tribunal(Chief Judicial Magistrate Court), Thiruvannamalai.

CMA No.927 of 2011:

The Divisional Manager,
United India Insurance Company Ltd.,
No.46, Katpadi Salai, Vellore .. Appellant/2nd Respondent

Versus

1. Visalakshi

2. Kumari

.. Respondents / Petitioner /
1st Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the award and decree dated 18.10.2010 made in O.P.No.177 of 2007 on the file of the Motor Accidents Claims Tribunal(Chief Judicial Magistrate Court), Thiruvannamalai.

CMA No.928 of 2011:

The Divisional Manager,
United India Insurance Company Ltd.,
No.46, Katpadi Salai, Vellore .. Appellant/2nd Respondent

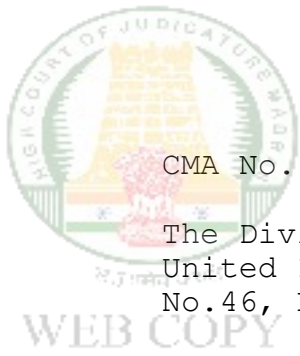
Versus

1. Kannimar

2. Kumari

.. Respondents / Petitioner /
1st Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the award and decree dated 18.10.2010 made in O.P.No.179 of 2007 on the file of the Motor Accidents Claims Tribunal(Chief Judicial Magistrate Court), Thiruvannamalai.



CMA No.929 of 2011:

The Divisional Manager,
United India Insurance Company Ltd.,
No.46, Katpadi Salai, Vellore .. Appellant/2nd Respondent

Versus

1. M.Mannu

2. Kumari .. Respondents / Petitioner /
1st Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the award and decree dated 18.10.2010 made in O.P.No.183 of 2007 on the file of the Motor Accidents Claims Tribunal(Chief Judicial Magistrate Court), Thiruvannamalai.

CMA No.930 of 2011:

The Divisional Manager,
United India Insurance Company Ltd.,
No.46, Katpadi Salai, Vellore .. Appellant/2nd Respondent

Versus

1. Poongavanam

2. Kumari .. Respondents / Petitioner /
1st Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the award and decree dated 18.10.2010 made in O.P.No.185 of 2007 on the file of the Motor Accidents Claims Tribunal(Chief Judicial Magistrate Court), Thiruvannamalai.

CMA No.931 of 2011:

The Divisional Manager,
United India Insurance Company Ltd.,
No.46, Katpadi Salai, Vellore .. Appellant/2nd Respondent

Versus

1. Palaniammal

2. Kumari .. Respondents / Petitioner /
1st Respondent



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Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the award and decree dated 18.10.2010 made in O.P.No.188 of 2007 on the file of the Motor Accidents Claims Tribunal(Chief Judicial Magistrate Court), Thiruvannamalai.

CMA No.932 of 2011:

The Divisional Manager,
United India Insurance Company Ltd.,
No.46, Katpadi Salai, Vellore .. Appellant/2nd Respondent

Versus

1. Valliammal

2. Kumari .. Respondents / Petitioner /
1st Respondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor Vehicle Act, 1988 against the award and decree dated 18.10.2010 made in O.P.No.189 of 2007 on the file of the Motor Accidents Claims Tribunal(Chief Judicial Magistrate Court), Thiruvannamalai.

(In all the appeals)

For Appellant : Mr.D.Bhaskaran

For Respondents : Notice Served -
No Appearance

JUDGMENT

The appellant/Insurance Company has come forward with this appeal, challenging against the award and decree dated 18.10.2010 made in O.P.Nos.191 to 193 of 2007,197 to 199 and 201 of 2007 and O.P.Nos.176,177,179,183,185,188 and 189 of 2007 on the file of the Motor Accidents Claims Tribunal(Chief Judicial Magistrate Court), Thiruvannamalai.

2. The brief facts of the case is as follows:

On 11.08.2002 at about 11.00 a.m, the first respondent herein along with many other persons were travelling in a Tractor bearing Registration No. 25/2302 and when they were reaching Thiruvannamali to Sengam Road near Puthur Village, the tractor driven by its driver in a rash and negligent manner resulted in the accident and thereby, the first respondent and other persons sustained grievous injuries and all of them were admitted in the Government Hospital, Chengam. It is also seen



from records that the 2nd respondent/Kumari is the owner of the alleged vehicle involved in the accident and she has permitted the victims to travel in the tractor and all the persons who travelled in the Tractor are her workers. After considering the Oral and documentary evidence the Tribunal came to the conclusion that the accident had occurred due to the rash and negligent driving of the vehicle and awarded a compensation of Rs.8,000/- each for all the claimants. Aggrieved over the same the appellant/Insurance Company has preferred this present appeal.

3. The learned counsel appearing for the appellant appearing in all these cases would contend that the claimants were travelled as gratuitous passengers. The vehicle involved in this accident is the goods vehicle and the owner of the vehicle ought not to have permitted their workers to travel in the vehicle which is used to carry goods. Hence, they are not responsible for the irresponsible attitude of the owner of the vehicle.

4. Per contra, the learned counsel for the claimant submitted that in the accident, they sustained injuries and they are able to continue their work. He further contend that the award passed by the Tribunal is a very reasonable one and prays to confirm the award passed by the Tribunal and dismiss this appeal.

5. Heard both sides.

6. It is seen from records that before the Tribunal, on the side of the petitioner therein 14 witnesses and 15 exhibits were marked. On the side of the respondents therein 1 witness and 3 exhibits were marked.

7. When the matter is taken up for hearing on 25.03.2019, the learned counsel for the appellant produced a copy of the order dated 24.10.2018 passed in C.M.A.No.1529 of 2015 raising out of very same accident instituted by one of the injured person, wherein, this Court has ordered the Insurance Company to pay the amount and recover from the owner of the vehicle. The relevant portion of the order is extracted hereunder:

51. 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., 1st 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. Consequently, the connected miscellaneous petitions are closed."

8. In view of the orders passed by this Court in respect of the very same accident of this case, this Court does not intend to take a different view in this matter and this petition is partly allowed.

9. In the aforesaid Judgment, the appellant/Insurance Company has to pay and recover the compensation amount from the owner of the vehicle. Therefore, this Court is of the considered view that the appellant Insurance company is entitled to recover the amount after paying the compensation amount to the claimants and they cannot be exonerated from the liability. Thus, the Insurance Company has to pay the compensation amount to the claimants with liberty to recover if from the owner of the vehicle. No order as to costs. Consequently, all the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

smn

To:

1. The Motor Accident Claims Tribunal,
Chief Judicial Magistrate, Thiruvannamalai.
2. The Section Officer,
V.R. Section, High Court, Madras - 104.

+1 cc to Mr.D.Bhaskaran, Advocate, S.R.No.27874

CMA Nos.1652 to 1658 of 2011
and
CMA Nos. 836, 927 to 932 of 2011
M.P.No. 1 of 2011(14)

GJ(CO)
SSM(30/10/2019).