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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving the Order	Date of Pronouncing the Order
20.02.2019	23 .04.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.Nos.2975, 2957 to 2962 of 2011
and

M.P.Nos.1 to 1 of 2011

The Branch Manager,
The United India Insurance Co., Ltd.,
Vellore. .. Appellant in all C.M.As

Vs.

1. Govindhi
2. Kalaivani
3. Karthick
4. Minor Vijayalakshmi
D/o late Thangaraj, minor
rep.by her mother & Next Friend Govindhi.
5.A.P.Kavitha ..Respondents in C.M.A.No.2975 of 2011

1. Nanthiyammal
2. Muniyammal
3. A.P.Kathitha ..Respondents in C.M.A.No.2957 of 2011

1.Sumathi
2. A.P.Kavitha ..Respondents in C.M.A.No.2958 of 2011

1.Rajendran
2. A.P.Kavitha ..Respondents in C.M.A.No.2959 of 2011

1. Santhi
2. A.P.Kavitha ..Respondents in C.M.A.No.2960 of 2011

1. Govindaraj
2. A.P.Kavitha ..Respondents in C.M.A.No.2961 of 2011

1. Eswari
2. A.P.Kavitha ..Respondents in C.M.A.No.2962 of 2011



Prayer in C.M.A.No.2975 of 2011: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.67 of 2010 dated 17.05.2011 on the file of the Motor Accidents Claims Tribunal (Fast Track Court, Additional District Judge) at Tirupattur.

Prayer in C.M.A.No.2957 of 2011: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.55 of 2010 dated 17.05.2011 on the file of the Motor Accidents Claims Tribunal (Fast Track Court, Additional District Judge) at Tirupattur.

Prayer in C.M.A.No.2958 of 2011: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.175 of 2010 dated 17.05.2011 on the file of the Motor Accidents Claims Tribunal (Fast Track Court, Additional District Judge) at Tirupattur.

Prayer in C.M.A.No.2959 of 2011: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.176 of 2010 dated 17.05.2011 on the file of the Motor Accidents Claims Tribunal (Fast Track Court, Additional District Judge) at Tirupattur.

Prayer in C.M.A.No.2960 of 2011: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.177 of 2010 dated 17.05.2011 on the file of the Motor Accidents Claims Tribunal (Fast Track Court, Additional District Judge) at Tirupattur.

Prayer in C.M.A.No.2961 of 2011: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.178 of 2010 dated 17.05.2011 on the file of the Motor Accidents Claims Tribunal (Fast Track Court, Additional District Judge) at Tirupattur.

Prayer in C.M.A.No.2962 of 2011: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.No.179 of 2010 dated 17.05.2011 on the file of the Motor Accidents Claims Tribunal (Fast Track Court, Additional District Judge) at Tirupattur.



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For Appellant : Mr.M.Krishnamoorthy
in all C.M.As

For Respondents 1 to 4 : Mr.PA.Sudesh Kumar
in CMA.No.2975 of 2011

For Respondent - 5 : No appearance
in CMA.No.2975 of 2011

For Respondents 1 & 2 : Mr.P.Parivallal
in CMA.No.2957 of 2011

For Respondent - 3 : No appearance
in CMA.No.2957 of 2011

For Respondents : No appearance
in CMA.Nos.2958 to 2962
of 2011

C O M M O N J U D G M E N T

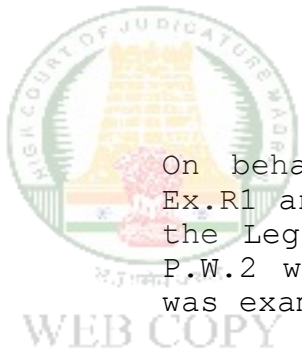
These Civil Miscellaneous Appeals arise out of the common Judgment dated 17.05.2011 made in the respective M.C.O.P.Nos. 67, 55, 175 to 179 of 2010 on the file of the Motor Accidents Claims Tribunal (Fast Track Court, Additional District Judge) at Tirupattur (for brevity, "the Tribunal").

2. The insurance company is the appellant herein. Since all these appeals have been filed against the common judgment passed by the Tribunal, the same are heard together and are being disposed of, by this common judgment.

3. The facts leading to the filing of these appeals are as follows:-

3.1. On 17.07.2008 at about 4.15p.m near Kurisilapattu E.B.Office, in between Kurisilapattu - Pexumapattu main road, a lorry bearing Registration No.TN.21-AA-5577 was driven by its driver in a very rash and negligent manner towards Kurisilapattu and met with an accident, due to which, the said lorry capsized on the left side of the road. As a result of the accident, two persons died and seven persons sustained grievous injuries. Hence, nine separate claim petitions have been filed by the injured as well as the legal heirs of the deceased, seeking compensation. Except M.C.O.P.No.67/2010, the Tribunal tried other eight claim petitions jointly.

3.2. Before the Tribunal, P.W.1 to P.W.9 were examined and Ex.P1 to Ex.P36 were marked on the side of the claimants.



On behalf of the Insurance Company R.W.1 was examined and Ex.R1 and Ex.R2 were marked. In M.C.O.P.No.67 of 2010 filed by the Legal Representative of the deceased Thangaraj, P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P8 were marked and R.W.1 was examined and Ex.R1 and Ex.R2 were marked.

3.3. On consideration of oral and documentary evidence, the Tribunal fixed the liability of the insurance company to pay compensation to the claimants and accordingly, passed an award dated 17.05.2011.

3.4. Out of 9 petitions, the appellant insurance company has come up with only the seven appeals, the details of which read as follows:

S.No.	CMA Nos.	MCOP.Nos.	Award Amounts
1.	2975/2011	67/2010	Rs.4,65,000/-
2.	2957/2011	55/2010	Rs.4,65,000/-
3.	2958/2011	175/2010	Rs.76,853/-
4.	2959/2011	176/2010	Rs.77,850/-
5.	2960/2011	177/2010	Rs.15,000/-
6.	2961/2011	178/2010	Rs.12,000/-
7.	2962/2011	179/2010	Rs.15,000/-

4. In these appeals, the appellant insurance company has questioned only their liability to pay compensation to the claimants. The learned counsel appearing for the appellant Insurance Company has contented that the appellant insurance company is not liable to pay compensation, as all the persons have traveled as unauthorized passengers in the lorry carrying bricks and due to the accident, all of them sustained injuries, besides two persons died.

5. On the other hand, the learned counsel appearing for the respondents/claimants submitted that the Tribunal, after examining the oral and documentary evidence placed before it, has rightly arrived at the conclusion that the appellant insurance company is liable to pay compensation and accordingly, determined the compensation to the claimants, which does not call for any interference by this Court.

6. Heard both sides and perused the records.

7. It is seen from the insurance policy, which is marked as Ex.R1, that under the head "liability", the basic premium paid is Rs.6,260/-; additional premium towards personal accident coverage to the owner and the driver is Rs.100/-; Workman Compensation to employees numbering 7 is Rs.175/- and one other employee is Rs.75/-. Thus, it would



categorically establish that all the persons, who sustained injuries and died in the accident, fall under the category of coolies accompanied goods in the lorry and cover under the insurance policy. The Tribunal, taking into account the same and also the provisions of the Tamil Nadu Motor vehicle Rules, was of the view that the appellant insurance company is liable to pay compensation to the claimants.

8. On perusal of the Ex.R1, it is seen that under the head "liability" the basic premium of Rs.6,260/- (Rupees Six Thousand Two Hundred and Sixty Only) were paid as below:

LIABILITY		
B: T.P. BASIC		:6,260.00
Compulsory PA to Owner-Driver		: 100.00
Amount 200000		
WC to employee 7		: 175.00
Employees other 1		: 75.00
GROSS (B)	: Rs.6,610/-	
Gross OD & TP	: Rs. 25,105/-	
(A) + (B)		

9. In the decision reported in 2006 (1) TN MAC 180 (National Insurance Company Ltd., Karaikudi, rep. by its Branch Manager Vs. Parameswari and others), it has been held that the Insurance Policy in respect of lorry indemnifying insurer to pay compensation for six coolies, driver & cleaner. Under the said circumstances, the insurer is liable to pay compensation and further there is no violation of conditions of terms of policy.

10. In the case on hand, admittedly, there were 10 claimants before the Tribunal and the Tribunal by its Common Judgement dated 17.05.2011 has allowed the aforesaid M.C.O.Ps and held that both the owner and driver of the Insurance Company are liable only in respect of 8 Claimants and in respect of 2 other claimants in M.C.O.P Nos.180 and 181 of 2010, only owner of the vehicle is liable and exonerated the Insurance Company. Hence, taking into consideration that extra premium has been paid covering 8 person and the Tribunal has granted compensation and also awarded that the Insurance Company is liable to pay only in respect of 8 claimants and exonerated the Insurance Company in respect of the 2 other cases cannot be found to be false and the same does not suffer from any irregularity and illegality warranting interference therein and hence in view of the matter all the C.M.A Nos.2975, 2957 to 2962 of 2011 preferred by the Insurance Company is liable for rejection.



11. In view of the above, these appeals filed by the Insurance Company stand dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

lbm

To

The Motor Accidents Claims Tribunal,
(Fast Track Court, Additional District Judge),
Tirupattur.

Copy To:
The Section Officer,
VR Section, High Court, Madras

+1cc to Mr.PA.Sudesh Kumar, Advocate SR.No.38596

+6cc to Mr.M.Krishnamoorthy, Advocate SR.No.39470, 39468,
39469, 39472, 39471, 39467,

+2cc to Mr.V.Parivallal, Advocate SR.No.39028

C.M.A.Nos.2975, 2957 to 2962 of 2011
and
M.P.Nos.1 to 1 of 2011

SSV(CO)
GMY(05/12/2019)