

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.Nos.3603 of 2011
and
M.P.No.1 of 2011
and
C.M.A.Nos.524, 525 and 68 of 2010
and
M.P.Nos.1 of 2010 (3 cases)

The Divisional Manager,
The United India Insurance Company Ltd.,
No.4&5, Kandasamy Mudali Street,
Ranipet .. Appellants in all C.M.As

Vs.

Ansarbee ..1st Respondent in C.M.A.No.3603 of 2011
K.Sheriff ..1st Respondent in C.M.A.No.524 of 2010
Shajhathi ..1st Respondent in C.M.A.No.525 of 2010
Beevi Jhan ..1st Respondent in C.M.A.No.68 of 2010

2.M.Kudiarasu ..2nd Respondent in all C.M.As

Prayer in C.M.A.No.3603 of 2011: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 17.12.2009 made in M.C.O.P.No.233 of 2005 on the file of the Motor Accident Claims Tribunal (Subordiante Judge) at Cheyyar.

Prayer in C.M.A.No.524 of 2010: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 16.11.2009 made in M.C.O.P.No.193 of 2005 on the file of the Motor Accident Claims Tribunal (Subordiante Judge) at Cheyyar.

Prayer in C.M.A.No.525 of 2010: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 10.11.2009 made in M.C.O.P.No.29 of 2006 on the file of the Motor Accident Claims Tribunal (Subordiante Judge) at Cheyyar.

Prayer in C.M.A.No.68 of 2010: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 02.09.2009 made in M.C.O.P.No.192 of 2005 on the file of the Motor Accident Claims Tribunal (Subordiante Judge) at Cheyyar.

C.M.A.No.3603 of 2011:-

For Appellant	: Mr.M.Krishnamoorthy
For Respondents	: No appearance

C.M.A.No.524 of 2010:-

For Appellant	:Mr.M.Krishnamoorthy
For R1	:Mr.K.G.Senthilkumar

C.M.A.No.525 of 2010:-

For Appellant	:Mr.M.Krishnamoorthy
For R1	: No appearance
For R2	:Not ready in notice

C.M.A.No.68 of 2010:-

For Appellant	:Mr.M.Krishnamoorthy
For R1	:No appearance
For R2	:Mr.S.Thirunavukkarasu

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

All these appeals arise out of the common judgment rendered in the same accident in which M.C.O.Ps were filed.

2. The learned counsel for the appellant/Insurance Company would submit that the liability of the appellant is confined to the policy marked as Exhibit P7. As per Exhibit P7, the van seating capacity is only 12. However, 23 persons were said to have travelled in the van and in the accident, the claimants sustained injuries and these M.C.O.Ps have been filed as separate petitions before the Tribunal and separate orders have been passed.

3. Taking into consideration the fact that the seating capacity of the van is only 12, as per Exhibit P7 policy copy, the liability of the Insurance Company is only confined to 12 persons. Both the counsel for claimant as well as appellant/Insurance Company are not in a position to express how many claim petitions have been filed in respect of the very same accident. As per the version of the learned counsel appearing for the appellant/Insurance Company, only these cases have been listed and these M.C.O.Ps have been disposed of.

4. Taking into consideration the fact that the Insurance Company is liable to 12 persons, as per Exhibit P7 policy, in respect of 12 claimants alone the liability of the Insurance Company is held to be intact and in respect of others over and above 12, the owner of the vehicle is fastened with the liability.

5. With the above observations, the award passed in the M.C.O.Ps is modified to the limited extent stated above and in other respects, the award passed are hereby confirmed and also on the point of quantum.

6. In view of this matter, this Civil Miscellaneous Appeals are partly-allowed. The Insurance Company has submitted that the entire award amount has already been deposited. It is open to the claimants to file petitions before the Tribunal for withdrawal of the compensation amounts. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

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To

1.The Motor Accident Claims Tribunal
(Subordinate Judge) at Cheyyar.

2. The Section Officer,
V.R.Section, High Court, Chennai.

+4 ccs to Mr.M.Krishnamoorthy Advocate sr27066,27070
27069,27068

+1 cc to Mr.K.G.Senthil kumar advocate sr26172

C.M.A.No.3603 of 2011 and
M.P.No.1 of 2011 and
C.M.A.Nos.524, 525 and 68 of 2010 and
M.P.Nos.1 of 2010 (3 cases)

gmr (co)
aa03/03/2020