



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.04.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.634 & 635 of 2012
and
Mp.No.1 of 2012 (2 cases)

The New India Assurance Co.Ltd.,
Branch Office,
No.105, Railway Station Road,
Tirpathur Town,
Vellore District.

... Appellant/2nd Respondent
in both CMAs

Versus

1.Muniappan

... 1st Respondent/Petitioner

1.Pachiappan

... 1st Respondent/Petitioner
in CMA.635 of 2012

2.P.Stalin

... 2nd Respondent/Ist
Respondent in both CMAs

Prayer : Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 05.04.2011 made in M.C.O.P.Nos.168 & 283 of 2008 respectively, on the file of the Motor Accidents Claims Tribunal, Motor Accidents Claims Tribunal, Fast Track Court (Additional District Judge), Dharmapuri.

For Appellant : Mr.A.Salomi
For Respondents : Mr.R.Selvakumar (for R1)
: No Appearance (for R2)

JUDGMENT

Both appeals arise out of the common judgment dated 05.04.2011 rendered by the Motor Accidents Claims Tribunal, Fast Track Court (Additional District Judge), Dharmapuri, in MCOP.Nos. 168 & 283 of 2008 respectively.

2.The factum and manner of the accident is not dispute and the quantum is also not dispute. So, this Court is not traversing into these aspects once again. However, the main challenge in these appeals is liability fastened on the



appellant/Insurance company.

3.The learned counsel for the appellant in both cases would contend that the vehicle involved in the accident is a Mini-door van bearing Reg.No.TN-23-K-4245 carried over and above the seating capacity, the first respondent/claimants, who were travelled as sanitary workers with sanitary equipments from place to place, which is in violation of the terms and conditions of Ex. R1/policy. Further, he would contend that the Tribunal erred in looking into the said fact and awarded compensation.

4.Per contra, the learned counsel for the first respondent/ claimants contended that the factual ground of that the claimants have travelled in the Mini-door van carrying sanitary equipments from Palakodu to Dharmapuri is not dispute and having looking into the factual aspects, the Tribunal fastened the liability and awarded the compensation and there is no need to interfere with the same.

5.It is seen from the award of the Tribunal that during the cross examination of RW.1, the first page of the policy copy has been marked as Ex.R1. On the contrary, the claimants have marked the policy copy of the offending vehicle as Ex.P3. Taking note of the fact that the Mini-door policy copy was not marked fully and that the appellant/Insurance company failed to prove that the sanitary workers are not entitled for the compensation, hence, the Tribunal held that the appellant/Insurance company and the owner of the offending Mini-door van are jointly and severally liable to pay the compensation to the claimants.

6.On re-appreciation of the evidence and also taking into consideration of Ex.P3 and also the answer elicited from the RW.1, the finding of the Tribunal that as per the policy three persons can travel in the offending van with goods as labour and as such the claimants are covered under policy and therefore, the appellant/Insurance company cannot be exonerate from the liability being the insurer of the offending van. Thus, the Tribunal was right in holding that the accident occurred due to rash and negligent driving of the driver of the Mini-door van and directed the appellant/Insurance company and the owner are liable to pay the compensation.

7.Coming to the point of quantum, the Tribunal has taken note of the disability certificate of Muniappan/Ex.P2 and Pachiappan/Ex.P5 assessed the disability at 10% & 15% respectively and awarded total compensation of Rs.10,000/- & Rs.68,000/- respectively, which is in my considered view is just and reasonable. Therefore, I do not find any infirmity in the finding rendered by the Tribunal in awarding the compensation as



stated supra. No valid grounds have been made out to interfere with the award of the Tribunal. Hence, the appeals preferred by the appellant/Insurance company are liable to be dismissed.

8. Accordingly, the Civil Miscellaneous Appeals are dismissed, thereby confirming the award passed by the Tribunal.

(i) The Insurance Company is directed to deposit the amount as determined by the Tribunal together with interest 7.5%, after adjusting amount, if any, already deposited within a period of eight weeks from the date of receipt of a copy of this Judgment.

(ii) On such deposit being made, the claimant is entitled to withdraw the same with accrued interest, less the amount if any, already withdrawn. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

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

2. The Section Officer,
V.R. Section, High Court, Madras - 104.

+1 cc to M/s.C.Ramesh Babu Advocate sr39803,39804
+1 cc to M/s.R.Selvakumar Advocate sr40025

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