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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 29.01.2019

CORAM:

THE HON'BLE MS.JUSTICE V.M.VELUMANI

C.M.A.Nos.935 to 937 of 2015
and M.P.Nos.1,1,1 of 2015

United India Insurance Co. Ltd.,
No.146-N, Kumar Complex,
Thiruchengode,
Namakkal District. .Appellant in all C.M.A's/2nd Respondent

Vs

1.Ravi ...1st Respondent in C.M.A.No.935 of 2015

1.Paramasivam ...1st Respondent in C.M.A.No.936 of 2015

1.Sivakumar ...1st Respondent in C.M.A.No.937 of 2015

2.Rajendran ...2nd Respondent in all C.M.A's/1st Respondent

Common Prayer: Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicle Act, 1988, against the judgment and decree dated 26.04.2013 made in M.C.O.P.Nos.634, 607 and 672 of 2009 on the file of Motor Accident Claims Tribunal, Sub Court, Sankari.

In all the C.M.A's

For Appellant : Mr.T.Ravichandran
For R1 : Mr.C.Kulanthaivel

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

These Civil Miscellaneous Appeals are filed against the award dated 26.04.2013 made in M.C.O.P.Nos.634, 607 and 672 of 2009 on the file of Motor Accident Claims Tribunal, Sub Court, Sankari.



5. Per contra, the learned counsel appearing for the 1st respondents in all the three appeals contended that the 1st respondents in C.M.A.Nos.935 & 936 of 2015 travelled as load-men and 1st respondent in C.M.A.No.937 of 2015 travelled as cleaner in the truck. Though they travelled in support of truck to the rig, no tractor was involved in the accident as alleged by the learned counsel for the appellant. The Tribunal considering entire materials available on record and evidence of 1st respondents as PW1 to PW3, held that they travelled only as load-men and cleaner in support of truck to the rig and the appellant-Insurance Company is liable to pay compensation and prayed for dismissal of all the appeals.



6. Heard the learned counsel appearing for the appellant as well as the 1st respondents and perused the materials available on record.

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7. From the materials available on record, it is seen that the Tribunal considering the fact that 1st respondents in all the three appeals belong to the Namakkal District, the 2nd respondent-owner of the vehicle is also native of Namakkal District and the accident occurred at Murakpur, held that the 1st respondents in all the appeals travelled only as load-men and cleaner in support of truck to the rig. From the award of the Tribunal, it is seen that the appellant has not cross examined PW1 to PW3 to show that they did not travel as load-men and cleaner. Further, the appellant has failed to prove that seven persons travelled in the vehicle at the time of accident. The Tribunal has taken note of the fact that in Ex.P1-FIR also, it is not mentioned that seven persons travelled in the vehicle. Further, the 1st respondents in all the appeals have contended that they travelled in support of truck to the rig. The contention of the learned counsel for the 1st respondents is that they did not travel in the tractor. There is no contra evidence produced by the appellant to prove that the 1st respondents travelled in the tractor. Considering the materials available on record, the Tribunal has held that the 1st respondents in all the three appeals travelled only as load-men and cleaner in the truck to the rig and awarded compensation. The said finding of the Tribunal is not perverse. Similarly, the contention of the learned counsel for the appellant that the percentage of disability certified by PW4-Doctor is without following the medical guidelines and the Tribunal ought to have awarded only a lump sum compensation, is without merits. The appellant has not let in any evidence to disprove the percentage of disability assessed by PW4-Doctor. In the above circumstances, the award of the Tribunal does not warrant any interference by this Court.

8. In the result, all the three Civil Miscellaneous Appeals are dismissed and award of the Tribunal is confirmed. Both the appellant-Insurance Company as well as 2nd respondent are directed to deposit the entire amount awarded by the Tribunal along with interest and costs, jointly and severally, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the 1st respondents-claimants are permitted to withdraw their respective share



amount awarded by the Tribunal along with interest and costs, less the amount if any, already withdrawn. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

kj/rst

To

1.The Motor Accidents Claims Tribunal,
Subordinate Judge at Sankari.

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

+1cc to Mr.C.Kulanthaivel , Advocate SR.No. 7654

+1cc to Mr.T.Ravichandran, Advocate SR.No. 7142

C.M.A.Nos.935 to 937 of 2015

and M.P.Nos.1,1,1 of 2015

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