



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2019

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THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

C.R.P. (MD) (NPD)Nos.1028 to 1034 of 2007
and

M.P. (MD)Nos.1, 1, 1, 1, 1, 1, 1 of 2007 and 1 of 2008

M/s. National Insurance Co.Ltd, Pudukottai,
Through its Branch Manager.

... Petitioner in All Cases

- Vs. -

1. Chinnathal

2. Pandiyan (Ex-Parte in the Lowr Court).

... Respondents in CRP(MD).No.1028 of 2007

1. Amutha

2. Pandiyan (Ex-Parte in the Lowr Court).

... Respondents in CRP(MD).No.1029 of 2007

1. Amirtham(Died)

2. Pandiyan (Ex-Parte in the Lowr Court).

3. Ponnuswamy

4. Marimuthu

5. Panneerselvam

6. Manikandan

7. Minor Neela

RR 3to 7 are Brought On Record as Lrs of Died R1, Vide Court Order
Dated 6/8/19 made in Mp.1/2008)

... Respondents in CRP(MD).No.1030 of 2007

1. Marimuthu

2. Pandiyan (Ex-Parte in the Lowr Court).

... Respondents in CRP(MD).No.1031 of 2007



1. Shanthi
2. Pandiyan (Ex-Parte in the Lowr Court).

... Respondents in CRP(MD).No.1032 of 2007

1. Karuppiah(Died)
2. Pandiyan (Ex-Parte in the Lower Court).
3. Chellammal
4. Shanthi
5. Buvaneswari
6. Mariammal
7. Solai

(RR 3to 7 are Brought On Record as Lrs of Died R1, Vide Court Order Dated 6/8/19 made in Mp.1 and 2/2008 in Crp.1033/2007).

... Respondents in CRP(MD).No.1033 of 2007

1. Chinnathal
2. Pandiyan (Ex-Parte in the Lowr Court).

... Respondents in CRP(MD).No.1034 of 2007

Common Prayer :

Civil Revision Petition are filed under Article 227 of Constitution of India, against the Judgment and decree dated 04.10.2002 made in M.C.O.P.Nos.466 of 2000, 42, 43, 37, 40, 41 and 39 of 2001 on the file of the Motor Accident Claims Tribunal / Additional District Judge-cum-Chief Judicial Magistrate, Pudukkottai respectively.

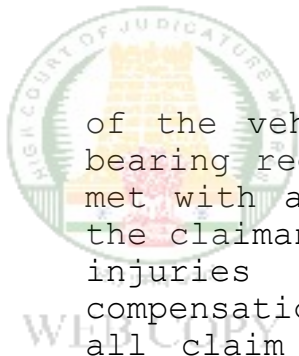
For Petitioner	:Mr.S.Srinivasa Raghavan
For R1	:Mr.P.Ganapathy Subramanian
For R2	: <i>Ex Parte</i>
	(In all cases)

COMMON ORDER

The Insurance Company, who is the second respondent in all the Claim Petitions before the Motor Accidents Claims Tribunal, is the revision petitioner in all these revision petitions.

2.The first respondent in all these revision petitions are the claimants before the Tribunal and the second respondent is the owner

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of the vehicle, which was involved in the accident. The vehicle bearing registration No.TN-21-X-4802 owned by the second respondent met with an accident on 02.08.2000. As a result of the accident, the claimants, who travelled in the said vehicle, sustained multiple injuries and therefore, they filed claim petitions claiming compensation at Rs.20,000/- for the injuries sustained by them. In all claim petitions, the Tribunal found that the claimants, who travelled as Load Men, are entitled to get a sum of Rs.7,000/-. As against the Award of the Tribunal, the Insurance Company has preferred the above Civil Revision Petitions.

3.The learned Counsel for the revision petitioner submitted that as per Rule 256 of Tamil Motor Vehicle Rules, only six persons can travel as Load Men and that the liability of the Insurance Company cannot be extended to all persons beyond the permitted number in the case of goods carrier. It is not in dispute that the vehicle is a goods carrier and hence, it is the responsibility of the second respondent, the owner of the vehicle, to adhere to the Statutory rules as well as the policy conditions. Unfortunately, the second respondent remained *ex parte* through out the proceedings.

4.Having regard to the admitted facts and the legal position and the submission of the learned Counsel for the revision petitioner that the vehicle was carrying more persons, beyond the permitted number, this Court is of the view that there is substance in the argument of the learned Counsel for the revision petitioner. When it is admitted that the Statute permits only six persons, who can travel as Load Men and the policy was drawn in such way that the owner of the vehicle, who permit more number of persons as Load Men, is liable, the Insurance Company can be made liable only to the extent they are responsible as per the policy. Though several persons have travelled, only seven people got injury and they filed claim petitions.

5.Since the liability towards six Load Men is admitted, this Court has no hesitation to dismiss all the Civil Revision Petition, except one. However, the liability of the second respondent is not in dispute and the liability of the Insurance Company to indemnify the owner is restricted to six cases.

6.Though the Insurance Company has admitted the liability towards six out of seven Load Men, who have filed claim petitions, practically, it is not possible for all the persons to proceed against the owner after this length of time. These Civil Revision Petitions are pending for more than 12 years before this Court and many thing might have happened in the mean time. Because of the pendency of the proceedings for a long time (more than 19 years), this Court is of the view that the rights of Insurance Company can be protected by giving permission to them to proceed against the second respondent in respect of their liability towards any one of



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the claimants. The Award of the Tribunal in all cases are sustained subject to the right of Insurance Company to recover the money from the owner of vehicle in one of the seven claim petitions.

7. Accordingly, these Civil Revision Petitions are disposed of with liberty to the revision petitioner to proceed against the second respondent for recovering the amount awarded in one of the seven claim petitions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To
The Motor Accidents Claims Tribunal
(Additional District-cum-Judicial
Magistrate Court), Pudukottai.

+1 CC to Mr.S.SRINIVASA RAGHAVAN, Advocate SR-80377.
+1 CC to Mr.P.GANAPATHI SUBRAMANIAN, Advocate SR-80797.

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