



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2019

CORAM:

THE HONOURABLE Mr.JUSTICE KRISHNAN RAMASAMY

C.M.A. (MD)No.1001 of 2018

and

C.M.P. (MD)Nos.10444 of 2018 and 2853 of 2019

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The Branch Manager,
National Insurance Co.Ltd.,
Jerome Buildings,
Port Station Road,
Trichy.

... Appellant / 2nd respondent

Vs.

1.R.Anjali Devi

... 1st Respondent / Claimant

2.Paramasivam

... 2nd Respondent / 1st respondent

Prayer: The Appeal filed under Section 173 of Motor Vehicle Act, 1988, against the judgment and decree dated 27.02.2017 in M.C.O.P.No.14 of 2013 passed by the Motor Accident Claims Tribunal, III Additional Sub Court, Trichy.

For Appellant : Mr.A.S.Mathialagan
For Respondents : Mr.M.Sudhagar Nagaraj for R1

JUDGMENT

This Civil Miscellaneous Appeal is filed against the judgment and decree dated 27.02.2017 in M.C.O.P.No.14 of 2013 passed by the Motor Accident Claims Tribunal, III Additional Sub Court, Trichy.

2.Challenging the liability, the learned counsel appearing for the appellant / Insurance Company submitted that it is a case of an "Act Policy" and therefore, it will cover only third party alone and the claimant, who travelled in a Minidor Van as the owner of the goods, is not entitled for any compensation. Further he submitted that in the said vehicle, only one person is permissible. He also contended that since it is an "Act Policy" the owner of the goods cannot be considered as a third party.

3.The learned counsel appearing for the appellant / Insurance Company relied on a decision of a Division Bench of this Court reported in **2018(2) TNMAC 731 DB (Bharati AXA General Insurance Co.Ltd Vs. Aandi and others)**. However, this judgment is



in favour of the claimant. He fairly admits that as per the deposition of R.W.2 (Officials from Insurance Company), the vehicle bearing registration No.TN49 / S3250 is a Light Motor Vehicle (LMV) and hence, in the said vehicle one person is permissible to travel along with the driver.

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4.The learned counsel appearing for the respondent / claimant submits that in the present case the owner of the goods would be considered as a third party as per Section 147 (1) of the Tamil Nadu Motor Vehicles Act. Section 147 reads as follows:

"147. Requirement of policies and limits of liability.

- (1) In order to comply with the requirements of this Chapter, a policy of insurance must be a policy which -
(a) is issued by a person who is an authorised insurer; and

(b) insures the person or classes of persons specified in the policy to the extent specified in sub - section (2)

(i) against any liability which may be incurred by him in respect of the death of or bodily 90[injury to any person, including owner of the goods or his authorised representative carried in the vehicle] or damage to any property of a third party caused by or arising out of the use of the vehicle in a public place ;"

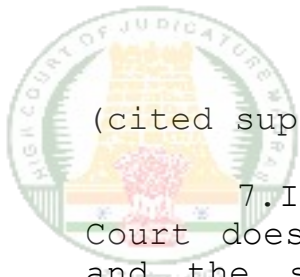
5.Further the learned counsel appearing for the respondent / claimant relied on a decision of the Hon'ble Supreme Court reported **2013(1) TNMAC 15 SC (Sanjiev Kumar Samrat Vs. National Insurance Company and others)**, wherein the Supreme Court has held as follows:

"17.In National Insurance Co.Ltd V. Cholleti Bharatamma and others, 2008(2) TN MAC 29(SC): 2008(1) SCC 423, the Court laid down that the provisions engrafted under Section 147 of the Act do not enjoin any statutory liability on the owner of the vehicle to get his vehicle insured for any passenger travelling in a goods vehicle and hence, any injury to any person in Section 147(1)(b) would only mean a third party and not a passenger travelling in a goods carriage, whether gratuitous or otherwise."

The Hon'ble Supreme Court, in the above said judgment, made it very clear that the owner of the goods, who travelled along with the driver, would be considered as a third party.

6.In the present case on hand, it is an admitted fact that the claimant / injured has travelled as owner of the goods. Therefore, this Court is of the view that he would be considered as third party in view of the settled proposition of law as held

by the Hon'ble Supreme Court reported in **2013(1) TNMAC 15 SC**



(cited supra) and also Section 147 of the Act.

7. In view of the aforesaid settled proposition of law, this Court does not find any merit in the Civil Miscellaneous Appeal and the same is dismissed and the award dated 27.02.2017 in M.C.O.P.No.14 of 2013 passed by the Motor Accident Claims Tribunal, III Additional Sub Court, Trichy is hereby confirmed. No costs. Consequently, connected C.M.Ps. are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Motor Accident Claims Tribunal,
III Additional Sub Court, Trichy.

2. The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
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+1 CC to M/s.A.S.MATHIALAGAN, Advocate (SR-88129[F] dated
20/09/2019)

+1 CC to M/s.N.SUDHAGAR NAGARAJ, Advocate (SR-88699[F] dated
23/09/2019)

**C.M.A. (MD) No.1001 of 2018
20.09.2019**

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