

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE OF RESERVATION	08.11.2019
DATE OF JUDGMENT	04.02.2020

CORAM

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A NO.2382 OF 2006

AND

CMP (MD) NO.2 OF 2006

M/s. Oriental Insurance Company Limited,
31, Sidhaveerappa Chetty Street,
Dharmapuri. : Appellant/2nd Respondent

Vs.

1.Satheesh Kumar : R1/Claimant

2.Rajavelu : 2nd Respondent/1st Respondent

Prayer :

Appeal filed under Section 173 of Motor Vehicle Act, 1988,
against the award and decree dated 21.12.2004 passed in MCOP
No.39 of 2002 on the file of the Motor Accidents Claims Tribunal
(Additional District Judge), Dharmapuri at Krishnagiri

For Appellant : M/s.R.Sreevidhya

For 1st Respondent : Mr.M.Selvam

For 2nd Respondent : Ex-parte

J U D G M E N T

Feeling aggrieved over the award of the Motor Accident
Claims Tribunal (Additional District Judge), Dharmapuri at
Krishnagiri, passed in MCOP No.39 of 2002, dated 21.12.2004,
the Insurance Company has filed this appeal.

2.The facts of the case are that on 17.04.2001, the claimant
was travelling in a Lorry TN-29-8119 from Perugopalli Quarry
Office to work site and the said lorry was drive by its driver
Annamalai and accompanied by Cleaner Sundhar and when the lorry
was nearing the Quarry site, the driver of the lorry drove it in
a rash and negligent manner and due to it, the lorry driver lost

his control and fell down in a 25 feet depth ditch. In that process, the claimant sustained injuries in his spinal cord and immediately, he was taken to a Private Hospital at Krishnagiri and then he was referred to Manipal Hospital, Bangalore for better treatment, where he was taking treatment between 17.04.2001 to 03.05.2001 as in-patient. In this regard, the Mathur Police, has registered a case in Crime No.338 of 2001 against the driver of the lorry. The claimant herein has filed a petition seeking Rs.10,00,000/- as compensation.

3.The Appellant Insurance Company resisted the claim disputing the manner of the accident and their liability to pay the compensation.

4.Before the Tribunal, the claimant in order to substantiate his case, examined 2 witnesses and marked Exs.P1 to P6. On the side of the respondents, no witness was examined and no document was marked.

5.Upon consideration of the oral and documentary evidence, the Tribunal came to the conclusion that the accident has taken place only due to the rash and negligent driving of the lorry driver and awarded compensation of Rs.2,42,000/- along with interest @ 7.5% p.a.

6.Heard the learned counsel appearing for the Appellant Insurance Company and the learned counsel appearing for the 1st respondent/claimant and perused the materials available on record.

7.The learned counsel appearing for the appellant Insurance company submitted that the claimant is the son of the owner of the vehicle travelling in the said vehicle and the petitioner was not a third party or workman connected with the operation of the vehicle and as such, it is not required to be covered under section 147 of the Motor Vehicles Act and not covered by the appellant Insurance Company and the award passed by the tribunal is not correct and prays that the civil miscellaneous appeal has to be allowed, by setting the award of the tribunal.

8.On the other hand, the learned counsel appearing for the first respondent/claimant argued that the claimant travelled from the office to the work spot and the driver of the lorry drove the lorry in a rash and negligent manner and due to it, the accident occurred and the lorry was insured with the appellant Insurance Company and hence, they are jointly and severely liable to pay compensation.

9.In this case, copy of the policy was marked as Ex.P3. On perusal of Ex.P3, it is seen that it is a comprehensive policy

and it covers non-fare paying non employee, paid driver and workman. The claimant was examined as PW1. PW1 deposed that at the time of occurrence, he went to quarry to supervise the work. As per Ex.P3 policy, premium was paid for one non-employee. PW1 deposed that he went to the quarry for the company work only. Hence, it is held that he is not an unauthorized passenger. Further, RW1 during his cross examination admitted that the place of occurrence is a public place. Hence, it is held that there was no violation of policy condition. Tribunal correctly came to the conclusion by directing the Insurance company to pay the award amount and then recover the same from the owner of the lorry, which is correct. Hence, this court is of the considered view that the award of the tribunal does not require any interference by this court and accordingly, the award of the tribunal is confirmed.

10.In fine, this civil miscellaneous appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

sms/er

To,

1. The Motor Accident Claims Tribunal
(Additional District Judge),
Dharmapuri at Krishnagiri.

Copy To

The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to Mr.M.Selvam, Advocate, S.R.No.8517

C.M.A No.2382 of 2006

RSV(CO)
CS/27/01/2021