

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3319 of 2009

and

M.P.No.1 of 2009

(Through Video Conferencing)

The National Insurance Company Ltd.,
Represented by its Divisional Manager,
having office at Officer's Line,
Vellore. ... Appellant/2nd Respondent

Vs.

1.Pattabi

2.M.R.Thajutheen ... Respondents/Petitioner &
1st Respondent

Civil Miscellaneous Appeal filed under Section 173 of
Motor Vehicles Act, 1988, against the award and decree dated
30.03.2009 made in M.C.O.P.No.45 of 2004 on the file of the
Motor Accidents Claims Tribunal (Subordinate Judge),
Gudiyatham.

For Appellant : Mr.D.Bhaskaran

For 1st Respondent : No appearance

For 2nd Respondent : No Scuh Address

J U D G M E N T

Though the notice on the 1st respondent/claimant has been served, there is no representation on behalf of him. Notice on the 2nd respondent has not been served till date. Since no adverse orders are proposed to be passed against the contesting respondents, this appeal is taken up for final disposal considering the fact that the appeal is of the year 2011.

2. I have heard the learned counsel for the appellant. I have also perused the impugned Judgment and Decree and the evidence on record.

3. The Insurance Company is the appellant. It is aggrieved by the impugned Common Judgment and Decree dated 30.03.2009 passed by the Motor Accident Claims Tribunal Gudiyatham Vellore District (Court of the Subordinate Judge, Gudiyatham) in M.C.O.P.No.45 of 2004.

4. By the impugned Judgment and Decree, the Tribunal has awarded a sum of Rs.36,550/- as compensation together with interest at 6% per annum from the date of claim petition till the date of deposit to the 1st respondent/claimant for the injuries suffered by him.

5. By an order dated 07.08.2020 in C.M.A.No.2560 of 2011 arising from the same accident and the same common Judgment, this Court has considered the issue and has dismissed the appeal. Therefore, I am inclined to follow the said order dated 07.08.2020 in this appeal also. The operative portion of the said order is reproduced below:-

6. Before the Tribunal, the appellant Insurance Company had taken a defence that the insured vehicle was a goods carriage and that more than 10 people travelled and due to the over loading, the driver could not control the vehicle, as a result of which, there was an accident resulting injury to the first respondent/claimant.

7. It is submitted that the compensation awarded to the first respondent/claimant was liable to be set aside as the first respondent/claimant travelled as an unauthorized passenger. It was further submitted that the claim of Rs.5,25,000/- was exaggerated claim and unrelated to the facts of the case.

8. It is noticed that the Tribunal has found that the appellant has not produced any documents to substantiate the defence before it. In this appeal also, there is nothing on record to infer that the second respondent had accommodated 15 persons in the insured vehicle. Therefore, there is no merit in the present appeal.

6. In the light of the above, this Civil Miscellaneous Appeal filed by the appellant Insurance Company is liable to be dismissed. Therefore, the appellant Insurance Company is directed to deposit the compensation of Rs.36,550/- awarded by the Tribunal together with interest at 6% per annum from the date of claim petition till the date of deposit and cost as directed by the Tribunal, less any amount already deposited, within a period of six weeks from the date of receipt of a

copy of this Judgment.

7. On such deposit, the 1st respondent/claimant is permitted to withdraw the same together with interest and cost, less any amount already withdrawn, by filing suitable application before the Tribunal.

8. Accordingly, this Civil Miscellaneous Appeal is dismissed. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-I)

//True copy//

Sub Assistant Registrar

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To:-

1. Motor Accidents Claims Tribunal,
(Subordinate Judge), Gudiyatham.
2. The Section Officer,
VR Section, High Court Madras

C.M.A.No.3319 of 2009
and M.P.No.1 of 2009

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