

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. Nos. 1544 and 1545 of 2013
and
MP Nos.1 and 1 of 2013

1. Divisional Manager
The New India Assurance Company Ltd.,
No.106, Big Street,
Tiruvannamalai.

2. Divisional Manager
The New India Assurance Company Ltd.,
No.45, 5th Floor,
Moore Street,
Chennai.

..... Appellants/ 2nd & 4th
Respondents in both C.M.As

versus

1. Krishnamoorthy

... 1st respondent/Claimant
in C.M.A. No.1544 of 2013

1. Panneerselvam

... 1st respondent/Claimant
in C.M.A. No.1545 of 2013

2. N.Arumugham

3. R.K.Jagan

... 2nd and 3rd Respondents/
1st & 3rd Respondents in both C.M.A.s

Prayer in C.M.A. No.1544 of 2013 :

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the decree and judgment dated 28.02.2011 made in MCOP No.70 of 2010 on the file of the Motor Accidents Claims Tribunal, Additional Sub Judge, Tiruvannamalai.

Prayer in C.M.A. No.1545 of 2013 :

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the decree and judgment dated 28.02.2011 made in MCOP No.71 of 2010 on the file of the Motor Accidents Claims Tribunal, Additional Sub Judge, Tiruvannamalai.

For Appellants in both C.M.As : Mr.K.Vinod
for
Mr.EL.Veera Ravindran
For R1 in both C.M.A.s : Ms.J.Prithivi
For R2 & R3 in both C.M.As : Not ready in notice

COMMON JUDGMENT

(These Appeals were taken up for hearing through Video Conferencing)

These appeals have been filed challenging the common award, dated 28.02.2011 passed in MCOP No.70 of 2010 and 71 of 2010 by the Motor Accidents Claims Tribunal, Additional Sub Judge, Tiruvannamalai .

2. Both these appeals have been filed by the Insurance company challenging the findings of negligence on the part of the insured vehicle. They have not challenged the quantum of compensation awarded by the Tribunal under the impugned award. It is their contention that the insured vehicle can carry only three persons, whereas it carried four persons at the time of the accident and hence they are not liable to the compensation.

3. Heard Mr.K.Vinod, learned counsel for the appellant in both appeals and Ms.J.Prithivi, learned counsel for the first respondent in both these appeals.

4. This Court has perused the materials and evidence available on record before the Tribunal.

5. RW1, the Appellant/Insurance company has himself admitted in his oral evidence that the insured vehicle can carry four persons. Despite contending in this appeal that the insured vehicle can carry only three persons, no evidence has been placed by the appellant / Insurance Company before the Tribunal to prove the said contention. On the contrary, RW1, the Appellants own witness has himself admitted that the vehicle is permitted to carry four persons. Hence, the Tribunal has rightly found that there is no policy violation committed by the owner of the insured vehicle.

6. The Tribunal has rightly held that the Appellant/Insurance Company is liable to compensate the claimants based on the materials and evidence available on record.

7. For the foregoing reasons, this Court is of the considered view that there is no merit in this appeal and accordingly, the Civil Miscellaneous Appeal shall stand

dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

8. The first Appellant / Insurance Company is directed to deposit the entire award amount awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P. Nos.70 and 71 of 2010, on the file of the Additional Sub Judge, Tiruvannamalai, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the respective claimants through RTGS, within a period of two weeks thereafter.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi2

To :

1. Motor Accidents Claims Tribunal,
Additional Sub Judge,
Tiruvannamalai.

Copy To

The Section Officer,
V.R. section,
High Court, Madras - 104.

सत्यमेव जयते C.M.A. Nos.1544 and 1545 of 2013

SSI (CO)
RMP (10/12/2020)

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