

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2020

CORAM:

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.477 of 2011
and M.P.No.1 of 2011

(Through Video Conferencing)

M/s.New India Assurance Co., Ltd.,
No.39-Bye-Pass Road,
Dharmapuri.-1. ...Appellant/2nd Respondent

vs.

1.Ambiga
2.Munusamy
3.Lakshmi
(3rd respondent exparte in
lower court and hence notice
may be dispensed with) ...Respondents/Respondents

Civil Miscellaneous Appeal filed under Section 173 of
Motor Vehicles Act, 1988 against the Judgment and Decree made
in M.C.O.P.No.572 of 2008 dated 15.07.2010 on the file of the
Motor Accident Claims Tribunal (Principal District Court)
Dharmapuri .

For Appellant : Mr.I.Rajadurai for
Mr.N.Vijayaraghavan

J U D G M E N T

The Insurance Company is the appellant in this appeal.
It is aggrieved by the impugned Judgment and Decree dated
15.07.2010 passed by the Motor Accidents Claims Tribunal,
(Principal District Court) Dharmapuri in M.C.O.P.No.572 of
2008.

2. By the impugned order, the 3rd respondent-owner of the
vehicle and the appellant-Insurance Company has been held
jointly and severally liable to pay a compensation for a sum
of Rs.2,00,000/- along with interest at the rate of 7.5%
p.a.from the date of claim petition till the date of deposit,
to the respondents 1 and 2 /claimants.

3. Though the Tribunal has held that the respondents 1
and 2 are entitled to recover the award amount from the 3rd
respondent-owner of the vehicle in para-8 of the impugned
Judgment, the Decree is silent on the same.

4. The facts of the case indicate that the owner of the insured auto the 3rd respondent herein allowed more than three persons to travel in it. In fact, it is seen from the records that 11 persons travelled in the auto. Thus, there was a violation of the policy conditions.

5. The impugned Judgment and Decree is therefore in accordance with law. Considering the same, this appeal filed by the Insurance Company is liable to be dismissed, while giving liberty to the appellant-Insurance Company to pay and recover the amount from the 3rd respondent - owner of the vehicle.

6. If the entire amount of compensation awarded by the Tribunal has not been deposited, the appellant Insurance Company is directed to deposit the same together with interest at 7.5% from the date of the claim petition till the date of deposit and the cost, less the amount already deposited if any, within a period of six weeks from the date of receipt of a copy of this Judgment.

7. On such deposit, the respondents 1 and 2 /claimants are entitled to withdraw the same equally along with interest and cost, by filing suitable application before the Tribunal. The appellant-Insurance Company may proceed to recover the aforesaid amount of compensation from the 3rd respondent- owner of the insured vehicle.

8. This Civil Miscellaneous Appeal stands dismissed with the above observations. No cost. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

kkd/jen

Notes:-In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To:

The Motor Accident Claims Tribunal
(Principal District Court)
Dharmapuri .

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MG (CO)
PSI 19/12/2020



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