

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.2541 of 2013

P.Murugan

... Appellant/Petitioner

Vs.

1. K.Govindasamy

2. IFFCO TOKIO General Insurance Co Ltd.,
Rep by its Branch Manager, Branch Office,
JH Towers, New No.24, Old No.382,
LIC Colony Road,
Salem 635 004.

... Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree made in MCOP.No.41 of 2011 dated 14.03.2013 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Dharmapuri.

For Appellant : Mr.D.Ramesh Kumar

For Respondents : R1 - Notice Served. No appearance.
Mr.N.Vijayaraghavan for R2.

J U D G M E N T

The appellant is the claimant filed this appeal, against the judgment and decree made in MCOP.No.41 of 2011 dated 14.03.2013 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Dharmapuri.

2. The case of the claimant/appellant is that on 06.05.2010 at about 16hours, the appellant engaged the first respondent for ploughing his land and boarded on the tractor to identify the land. While the tractor was nearing the land of Govindan in Eachampatti - Bodampatti Mud Road, the driver of the tractor driven the same in a rash and negligent manner and the tractor was upset in the ditch. Due to that the claimant fall down and sustained injuries in his chest, right elbow and all over his

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body. The claimant was taken to private hospital at Royakottai and then to Harur and Krishnagiri and taken treatment for the period from 08.05.2010 to 12.05.2010 as inpatient. At the time of accident he was 35years and carrying on agriculture and milk business and earning a sum of Rs.8,000/-p.m.

3. The second respondent/insurance company filed counter inter alia stating that the 1st respondent tractor does not involved in the accident and even assuming, the tractor involved, the claimant is a gratuitous passenger and the claim does not cover on him. The claimant travelled in the tractor as against the conditions stipulated in the policy.

4. In order to prove the case of the claimant, the claimant examined PW1 and PW2 and marked Ex.P1 to Ex.P7. On the side of the respondents, RW1 was examined and marked Ex.R1 and Ex.R2.

5. Heard both sides and perused the materials available on record.

6. From the available records, it is seen that the tribunal has rightly fixed the compensation under the head of loss of income by adopting the multiplier method. The insurance policy covered only one person i.e, the driver of the vehicle and the claimant has travelled in the tractor as gratuitous passenger and he does not cover under the policy. On a bare perusal of the Ex.R1/insurance policy cover note, it clearly shows that the premium was paid only for the owner cum driver and the driver/cleaner/conductor and for 3rd party. It is clear that no premium paid expect the above said persons. It is also admitted by the claimant in the claim petition that he boarded in the tractor along with the driver to identify his land. In the said circumstances, the policy does not cover on the claimant. The tribunal has rightly held that the appellant has travelled in the tractor as gratuitous passenger and this Court does not find any reason to interfere with the quantum of compensation awarded by the tribunal. With regard to the payments, the Award of the Tribunal remains unlatereed.

7. In the result, the civil miscellaneous petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CCC)

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Sub Assistant Registrar

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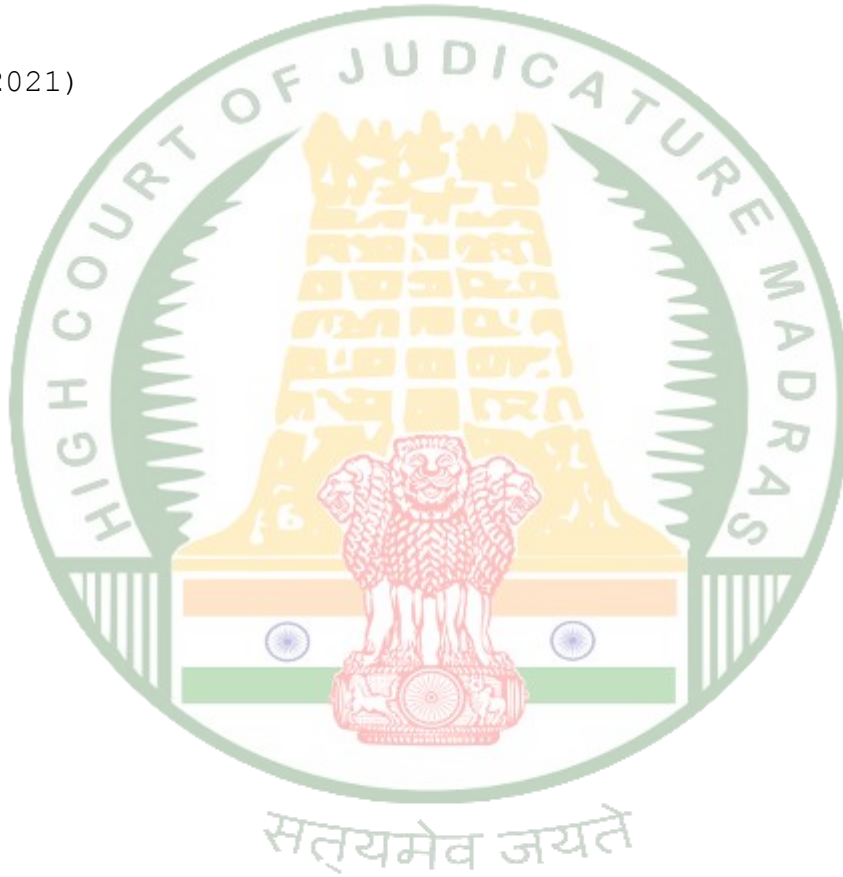
The Motor Accident Claims Tribunal,
Additional District Judge, Dharmapuri.

+1cc to M/s.D.Ramesh Kumar, Advocate SR.4197

+1cc to Mr.M.B.Gopalan Associates, Advocate SR.5045

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