

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.11.2020

CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.1754 of 2016

1.Kamalammal  
2.Pushpa  
3.Gangamani  
4.Jayalakshmi  
5.Saravanan

...Appellants/Claimants

/versus/

1.R.C.Amresan

2.The Divisional Manager,  
The United India Insurance Company Ltd.,  
Katpadi Road,  
Vellore-6

...Respondents/Respondents

Prayer: This Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree dated 11.02.2016, made in M.C.O.P.No.301 of 2012 on the file of the Motor Accidents Claims Tribunal, (I Additional District and Sessions Court), Vellore.

For Appellants : Mr.M.Sivakumar

For Respondents : No appearance for R1  
: Mrs.I Malar for R2

J U D G M E N T

(The case has been heard through video conference)

This appeal is preferred by the claimant being aggrieved by the award of the Tribunal, which has exonerated the Insurance Company and fixed the liability on the owner of the vehicle.

2. Heard the learned counsel for the appellants and the learned counsel for the 2<sup>nd</sup> respondent.

3. The case of the claimant is that on 03.03.2011, the tractor fitted with water tanker in the trailer bearing registration No.TN 23 AT 4539 dashed the bicycle of the deceased Raja in front of the Hindu Higher Secondary School, M.C.Road, Ambur near Saravana Store. The deceased fell down on the road

with grievous injury and was taken to the Government hospital, Ambur and died on the same day. The claimants are the dependants of the deceased Raja. The claim petition for Rs.12,50,000/- was filed against the owner of the tractor and the Insurance Company.

4. The claim was contested and resisted by the Insurance Company on the ground that the tractor insured under them has to be used for only to the agricultural purpose and for no other purpose. Trailer attached to the tractor at the time of the accident was not insured under them and had no permit. Therefore Insurance Company is not liable for the accident and there is no agreement between the owner of the tractor and the Insurance Company to indemnify such accident.

5. The Tribunal on considering the submissions has awarded a sum of Rs.6,91,500/- payable by the owner of the tractor. It has exonerated the Insurance Company on the ground that the trailer had no R.C., permit for the trailer and the insurance. The tractor has to be used only for agricultural purpose and not for any other commercial purpose. Since there is a grave fundamental violation and policy condition of the Motor Vehicles Act. The Insurance Company is not liable to indemnify the owner of the vehicle.

6. In the appeal, the claimant has specifically contend that there is no proof to show that the tractor was used for commercial purpose merely because the tractor was attached with a water tanker, it will not amount to use for commercial purpose. Further even if there is any violation the usage of the tractor, under Section 149 of the Motor Vehicles Act, the Insurance Company is liable to pay compensation at the first instance and then recover from the owner of the vehicle.

7. In view of this Court, the question of fixing the liability of the insurer in case of policy violation is substantially settled by the Supreme Court in Swarna singh case and Baljith Kaur case. The tractor meant for agricultural purpose, if used for any other purpose, it amounts to violation of Motor Vehicles Act and breach of insurance policy. The accident has occurred in the town during the evening hours. While the deceased was riding his bicycle the offending tractor attached to the trailer, which was not registered and not insured had caused the accident. The insurance policy Ex.P-8 specifically restricted to the usage of tractor for agricultural purpose only. Since the evidence show that the tractor was attached to the trailer which had no registration number and no insurance coverage, there is violation of policy condition.

8. In the said circumstances, this Court finds no error in the order of the Tribunal exonerating the Insurance

Company and fixing the liability on the owner of the vehicle.  
Hence the Civil Miscellaneous Appeal is dismissed. No order as  
to costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

rpl

To

The I Additional District and Sessions Court,  
The Motor Accidents Claims Tribunal,  
Vellore.

Copy To

The Section Officer,  
V.R. Section, High Court,  
Madras.

+1cc to Mr.C.Prabakaran, Advocate, S.R.No. 35930

C.M.A.No.1754 of 2016

GP (CO)  
GN (08/06/2021)



WEB COPY