

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2020

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.3573 of 2013

The New India Assurance Co. Ltd.,
Rep. By its Branch Manager,
No.1360, Amman complex,
EVN Road, Erode.

... Appellant/2nd Respondent

...Vs...

1.Suseela

...1st Respondent/Claimant

2. Sri Pathi Associates,
Rep. By its Manager,
No.62, Thangaperumal Street,
Erode Town and District - 638 001.

...2nd Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 29.08.2012 made in MCOP. No.532 of 2007 on the file of the Motor Accident Claims Tribunal, (I Additional Subordinate Judge) Villupuram.

For Appellant : Mr.C.Ramesh Babu

For Respondents: Mr.D.Pradeep

Mr.M.Sankaravadivel

- R1

- R2

JUDGMENT

(This Appeal was taken up for hearing through Video Conferencing)

This appeal has been filed by the Insurance company challenging the impugned award dated 29.08.2012 passed by the Motor Accident Claims Tribunal (I Additional Subordinate Judge), Villupuram in MCOP.No.532 of 2007.

2. The only ground raised by the appellant/insurance company is that they are not liable to compensate the claim of the first respondent/claimant as the insured vehicle viz., Hitachi Excavator bearing Registration No.TN XXX 9999 has committed policy violation by operating the said vehicle in a private land, where the accident is said to have taken place.

3. The first respondent has sustained injuries on 07.01.2007 as a result of the accident caused by the Hitachi Excavator owned by the second respondent and insured with the appellant/insurance company. The same contention was raised by the appellant/insurance company before the Tribunal, which was rejected by the Tribunal and it has awarded a compensation of Rs.1,20,000/- together with interest and costs to the first respondent/claimant, payable by the second respondent as well as the appellant/insurance company.

4. The details of the award passed by the Tribunal in favour of the claimant are as follows:

Head	Award passed by the Tribunal (Rs.)
Loss of earning	18,000/-
Transportation charges & Extra nourishment, damages of articles and clothing and Medical Expenses	20,000/-
Pain and suffering	37,000/-
Permanent disability	45,000/-
Total	1,20,000/-

5. Heard Mr.C.Ramesh Babu, learned counsel for the appellant /Insurance company and Mr.D.Pradeep, learned counsel for the first respondent and Mr.M.Sankaravadivel, learned counsel for the second respondent.

6. Before the Tribunal, the claimants have filed nine documents, which were marked as Ex.P1 to Ex.P9 and two witnesses were examined on her side, namely, PW1- the claimant herself and PW2 - Doctor, who examined her. On the side of the respondent, neither any witness was examined nor any document filed before the Tribunal.

7. With regard to the quantum of compensation awarded by the Tribunal, the appellant/insurance company has not challenged the said findings. Therefore, this Court is not considering the same in the instant appeal. The only question that has to be decided by this Court is whether the appellant/Insurance Company is liable to compensate the claim of the first respondent or not.

8. As seen from the insurance policy (Ex.P6), it is clear that the insurance policy has been issued by the appellant/insurance company for the vehicle viz., Hitachi Excavator bearing Registration No.TN XXX 9999 for operating throughout India, does not differentiate between public or

private areas as contended by the appellant/ insurance company before the Tribunal as well as in the instant appeal. This being the case, the Tribunal has rightly mulcted the liability on the appellant/insurance company. The cause of the accident as well as the nature of injuries sustained by the first respondent as a result of the accident caused by the Hitachi Excavator (insured vehicle) has not been disputed by the appellant/insurance company before the Tribunal and they have only disputed their liability.

9. Section 2(34) of the Motor Vehicle Act, 1988, reads as follows:

(34) 'public place' means a road, street, way or other place, whether a thoroughfare or not, to which the public have a right of access, and includes any place or stand at which passengers are picked up or set down by a stage carriage;''

10. As seen from the aforesaid definition of public place, it is clear that the appellant/insurance company cannot absolve its liability just because the accident had happened in a place owned by a private individual. Further, as observed earlier, the insurance policy(Ex.P6) has made it clear that the policy covers the whole India.

Conclusion:

11. For the foregoing reasons, this Court does not find any infirmity in the findings of the Tribunal and accordingly, there is no merit in this appeal. Accordingly, this Appeal shall stand dismissed.

12. The Appellant/Insurance Company is directed to deposit the Award amount together with interest from the date of claim petition till the date of deposit and costs, as assessed by the Tribunal, after deducting the amount, if any, already deposited, to the credit of MCOP.No.532 of 2007, 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 amount to the bank account of the first respondent/claimant through RTGS within a period of two weeks thereafter.

13. In the result, this appeal is dismissed. There is no order as to costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
(IAdditional Subordinate Judge) Villupuram.

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

+1 CC to Mr.N. Sankaravadivel, Advocate sr 27161.

C.M.A.No.3573 of 2013

SVI (CO)
SP(21/12/2020)



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