



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.01.2021

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.1125 of 2010

and

M.P.(MD)No.1 of 2010

M.Gopal .. Appellant/1st Respondent

vs.

1.P.Subramani .. 1st Respondent /Petitioner

2.The Branch Manager,
United India Insurance CO.,
M.P.S.Complex,
Palani,
Dindigul District. .. 2nd Respondent/2nd Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, against the fair and decreetal order dated 02.12.2005 in M.C.O.P.No.473 of 2001 on the file of the Motor Accident Claims Tribunal (Sub-Court), Palani.

For Appellant : Mr.V.S.Ganesan

For R2 : Mr.N.Dilip Kumar

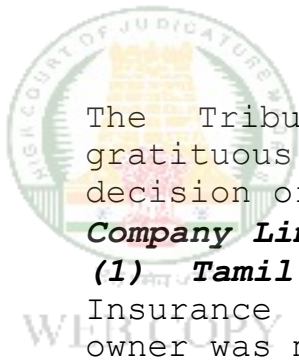
For R1 : Dismissed vide Court
Order, dated 29.11.2010

J U D G M E N T

This appeal has been preferred by the owner of the vehicle challenging the award passed in M.C.O.P.No.473 of 2001 by the Motor Accident Claims Tribunal (Sub-Court), Palani, wherein, the Tribunal has awarded a sum of Rs.20,000/- against the claim of Rs.1,00,000/-.

2. Heard Mr.V.S.Ganesan, learned counsel appearing for the appellant and Mr.N.Dilip Kumar, learned counsel appearing for the second respondent and perused the materials available on record.

3. It is seen that totally 7 claim petitions came to be filed before the Tribunal seeking compensation by the persons, who sustained injuries in an accident that took place on 20.08.2001.



The Tribunal having found that the injured claimants were gratuitous passengers in a goods vehicle and by following the decision of the Hon'ble Apex Court in the case of **National Insurance Company Limited Vs. Bommithi Subbhayamma and others** reported in **2005 (1) Tamil Nadu Motor Accident Cases 169 (SC)** exonerated the Insurance Company to pay the liability amount. In the result the owner was made liable to pay the compensation.

4. It is contended by the learned counsel for the appellant that on the date of accident, vehicle had insurance coverage and the injured claimants were loadmen and hence, the Insurance Company is liable to pay the award amount. The learned counsel appearing for the second respondent justified the award of the Tribunal and also relied on the latest decision of the Hon'ble Apex Court reported in **2020(SCC) Online Madras 2559**.

5. It is well settled that in cases where claims arise out of an accident involving gratuitous passengers in the goods vehicle, the insurance company is not liable to pay the award amount. It is also fairly admitted by the learned counsel for the appellant that one of the appeals filed challenging the common judgment came to be dismissed by this Court. So, I find no grounds to interfere with the award and findings of the Tribunal.

6. For the above said reasons, this Civil Miscellaneous Appeal fails and the same is dismissed. The appellant is directed to deposit the entire award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the first respondent/claimant is permitted to withdraw the award amount by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1.The Subordinate Judge,
Motor Accident Claims Tribunal,
Palani.



2.The Record Keeper, (2 copies)
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.N.DILIP KUMAR, Advocate (SR-1465[F] dated 20/01/2021)

JUDGMENT MADE IN
C.M.A(MD) No.1125 of 2010
18.01.2021

VB (16.02.2021) 3P 5C