



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2021

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) Nos.621 & 622 of 2010

and

M.P(MD)Nos.2 & 2 of 2010

C.M.A(MD)No.621 of 2010

United India Insurance Company Limited,
Madurai.

(C.No.122515)

... Appellant/2nd Respondent

vs.

1.Muniyaiah

... Respondent/Petitioner

2.Thanikodi

... Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, against the judgment and Decree in M.C.O.P.No.77/2000 dated 19.04.2005 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Ramanthapuram.

For Appellant

: Mr.J.S.Murali

For R1

: Mr.K.Baalasundaram

For R2

: Dismissed vide Court Order
dated 29.11.2017

C.M.A(MD)No.622 of 2010

United India Insurance Company Limited,
Madurai.

(C.No.122515)

... Appellant/2nd Respondent

vs.

1.T.Sathaiyah

... Respondent/Petitioner

2.Thanikodi

... Respondent/1st Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, against the judgment and decree in



M.C.O.P.No.78/2000 dated 19.04.2005 on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Ramanthapuram.

For Appellant : Mr.J.S.Murali
For R1 : Mr.K.Baalasundaram
For R2 : Dismissed vide Court order
dated 29.11.2017

C O M M O N J U D G M E N T

These appeals are directed against the common award passed by the Motor Accident Claims Tribunal, Subordinate Court, Ramanathapuram in M.C.O.P.No.77 & 78 of 2000.

2. This is a case of injury. According to the claimants, on 25.02.1999 they travelled in a Tractor attached with Trailer bearing Registration No.TN-65-0793 and TN-65-N-0794, as load men, but the driver of the Tractor drove it in a rash and negligent manner and dashed against the road side blockade. In the impact, they sustained injuries.

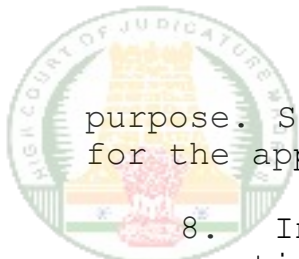
3. The claim petitions were resisted by the appellant/Insurance Company contending that the Tractor involved in the accident is to be used only for agricultural purpose, but at the time of accident, it was used as commercial vehicle. It is also contended that the injured claimants were gratuitous passengers and even if they travelled as a load man, the policy does not cover their liability.

4. The Tribunal considering the evidence adduced by the claimants, awarded compensation of Rs.10,800/- and Rs.65,059/- respectively, along with interest at the rate of 6% per annum.

5. Mr.J.S.Murali, learned counsel appearing for the appellant, drawn the attention of this Court to the evidence adduced by P.W.1 and the Insurance Policy Ex.R1, would argue that the vehicle was insured with the appellant under 'Act' policy and it is to be used only for agricultural purpose. But the evidence of P.W.1 would prove that it was used for commercial purpose, hence, the liability fastened on the the Insurance Company is to be set aside.

6. Per contra, Mr.K.Baalasundaram, learned counsel appearing for the first respondent in both appeals, would argue in justifying the award of the Tribunal.

7. In the matter on hand, in the claim petitions, no details have been given for what purpose the tractor was used at the relevant time. But in the cross-examination, P.W.1 admitted that at the of accident, about 5 to 6 persons were travelled in the trailer and they used the vehicle for carrying the materials from Karaikudi to Ramanthapuram, which shows the vehicle was used for commercial



purpose. So, I find force in the submission of the learned counsel for the appellant.

8. In the result, while confirming the quantum of compensation, direction issued by the Tribunal to the appellant/Insurance Company to pay the award amount, is set aside. It is open to the claimants to recover the amount awarded by the Tribunal from the owner of the vehicle.

9. Accordingly, these Civil Miscellaneous Appeals are allowed.

10. The Tribunal is directed to refund the amount to the appellant-insurance company, if any, deposited by them to the credit of the claim petition, if the same is not withdrawn by the claimants. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS I)

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/ /2021

Sub Assistant Registrar(CS)

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Note :

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

1.The Motor Accidents Claims Tribunal,
Subordinate Court, Ramanthapuram.

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

+2 CC to M/s.J.S.MURALI, Advocate (SR-7153[F],7154 dated 25/02/2021

JUDGMENT MADE IN

C.M.A(MD) Nos.621 & 622 of 2010

24.02.2021

KM(CO)

KK(25.03.2021) 3P 6C

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