WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	19.01.2021
Date of Judgment	30.03.2021

CORAM

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)No.611 of 2015
and
MP(MD)No.1 of 2015

The Manager,
National Insurance Company Limited,
Madurai Branch-III,
No.2A, Thirumakulam North,
Thallakulam,
Madurai-625 002. : Appellant/2nd Respondent

Vs.

1.Lakshmi
2.Periasamy
3.Balasubramani : R1 to R3/Petitioners
4.Sudarmani : 4th Respondent/1st Respondent
5.A.Rajendran : 5th Respondent/R3

PRAYER:- Civil Miscellaneous Appeals have been filed under Section 173 of the Motor Vehicles Act, 1988 against the award passed by the Motor Accident Claims Tribunal (District Judge), Karur, made in MCOP No.508 of 2008, dated 12.01.2012.

For Appellants : Mr.R.Srinivasan

For R1 to R3 : Mr.K.Suresh Kumar

For 4th Respondent : Dismissed, vide order, Dated 27.06.2018

For 5th Respondent : No appearance

J U D G M E N T

This appeal has been filed challenging the award passed by the Motor Accident Claims Tribunal (District Judge), Karur, made in MCOP No.508 of 2008, dated 12.01.2012.

2.The brief facts of the case is that on 09.06.2008 at about 4.45 pm, the deceased Kannan @ Muniyandi was arranged a Mini Door Auto TN-46-D-4093 for hire to take the vegetable goods and he was also travelling in the above said Auto along with other travellers namely Periasamy, Perumal and Sakthivel and when they were

https://hcservices.ecourts.gov.in/hcservices/

proceeding near Lakshmanapuram Bus Stop at Dindigul to Eriyodu road, the driver of the Mini Door Auto drove the vehicle in a rash and negligent manner. Due to the sudden impact, the said Mini Door Auto was capsized, resulting the deceased Kannan @ Muniyandi sustained serious head injuries and grievous fracture all over the body, while the other passengers also sustained injuries. The deceased Kannan @ Muniyandi was immediately taken to the Government Hospital, Dindigul, but he died in the hospital. The legal heirs of the deceased Kannan @ Muniyandi filed claim petition seeking compensation of Rs.10,00,000/- on the ground that driver of the Mini Door Auto was responsible for the accident.

3.In the counter filed by the Appellant Insurance Company, they disputed the manner of accident and their liability to pay compensation.

4.The Tribunal, on consideration of oral and documentary evidence adduced by the parties, came to the conclusion that the driver of the Mini Door Auto has caused the accident and awarded compensation of Rs.5,54,000/- together with interest @ 7.5% p.a.

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

6.In this case, the dispute is with regard to liability. The learned counsel appearing for the appellant/2nd respondent submitted that admittedly, the vehicle was used in sheer violation of the permit issued to the vehicle bearing No.TN-46-D-4093 and the use of the vehicle as per permit was one for Non Commercial Purpose (NCP), whereas and admittedly, it was used to carry goods along with its owners on hire and it is well evident from the pleadings and the evidences adduced therefor and the vehicle was used against the permit condition and the Insurance Company is not liable to pay compensation.

7.On the other hand, the learned counsel appearing for the respondents 1 to 3/claimants submitted that the deceased engaged a Mini Door Auto to transport the vegetables brought by him and the deceased travelled only as a custodian of the goods and hence, he is not a gratuitous passenger and since the deceased travelled as a custodian of his goods, the Insurance Company is liable to pay the compensation to the claimants.

8.In this case, an official of the Insurance Company was examined as RW1. RW1 stated during his evidence that the offending vehicle is a goods carrying commercial vehicle and as per the policy condition, only in the offending vehicle, goods alone were carried and either the owner of the goods or any other persons were not permitted to travel, but the deceased travelling in the vehicle and met with the accident, which amounts to violation of policy condition and hence, they are not liable to pay the compensation to the claimants.

https://hcservices.ecourts.gov.in/hcservices/

9.It is admitted on the side of the appellant/2nd respondent that the offending vehicle is a goods carrying vehicle. In a goods

WEB COPY

carrying vehicle, the owner of the goods is entitled to travel along with his goods. It is also admitted on the side of the appellant Insurance Company that on the date of the accident, the deceased travelled in the offending vehicle as a owner of the goods. Hence, it is held that it does not amounts to violation of policy condition.

10.For the reasons stated above, this court is of the considered view that the tribunal has correctly passed the award, which does not require any interference of this court.

11.In the result, this Civil Miscellaneous Appeal is dismissed, confirming the award of the tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

er

To

The Motor Accident Claims Tribunal/
District Court, Karur.

Copy to:

The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai. (2c)

+1cc to Mr.K.Suresh Kumar Advocate SR.No.14290.

CMA(MD)No.611 of 2015
30.03.2021

KK(24.05.2021) 3P 5C

https://hcservices.ecourts.gov.in/hcservices/