

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 10.10.2023

CORAM

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**C.M.A.Nos.1090, 1091, 1092 & 1093 of 2014andM.P.No.1 of 2014 [4 M.Ps]**C.M.A.No.1090 of 2014**

The Divisional Manager,
United India Insurance Company Ltd.,
Divisional Office No.12003 A,
Old Bangalore Road,
Hosur, Krishnagiri District.

... Appellant

Versus

1.Venkatesh

2.Syed Illiyaz
Respondents

...

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 21.12.2010 made in O.P.No.525 of 2004 on the file of the Motor Accident Claims Tribunal (Sub-Court), Tirupattur.

C.M.A.No.1091 of 2014

The Divisional Manager,
United India Insurance Company Ltd.,
Divisional Office No.12003 A,
Old Bangalore Road,



Hosur, Krishnagiri District.

... Appellant

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Versus

1.S.T.Rajappa

2.Syed Illiyaz
Respondents

...

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 21.12.2010 made in O.P.No.526 of 2004 on the file of the Motor Accident Claims Tribunal (Sub-Court), Tirupattur.

C.M.A.No.1092 of 2014

The Divisional Manager,
United India Insurance Company Ltd.,
Divisional Office No.12003 A,
Old Bangalore Road,
Hosur, Krishnagiri District.

... Appellant

Versus

1.S.Theethagiri

2.Syed Illiyaz
Respondents

...

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 21.12.2010 made in O.P.No.527 of 2004 on the file of the Motor Accident Claims Tribunal (Sub-Court), Tirupattur.

C.M.A.No.1093 of 2014

The Divisional Manager,
United India Insurance Company Ltd.,



Divisional Office,
Old Bangalore Road,
Hosur, Krishnagiri District.

... Appellant

Versus

1.Padma

2.Minor.Kavitha

(Minor represented by her mother and
next friend Mrs.Padma the first claimant)

3.Samannan

4.Syed Illiyaz
Respondents

...

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 21.12.2010 made in O.P.No.528 of 2004 on the file of the Motor Accident Claims Tribunal (Sub-Court), Tirupattur.

For Appellant : Mr.D.Bhaskaran
(in all C.M.As)

For Respondents
(R1) : Mrs.Subdra
For M/s.M.Malar
(in all C.M.As)

(R2) : Not ready in notice
(in all C.M.As)

COMMON JUDGMENT

Since the issues involved in all the cases are one and the same, all the cases are disposed of by way of this common order.



2. The appellants/Insurance company has come forward with these present appeal, against the common award and decree dated 21.12.2010 of the Motor Accident Claims Tribunal (Sub-Court), Tirupattur.

3. It is the case of the appellant that on 01.07.2004, the claimants were travelling in a van bearing Reg. No.TN 29/Q 7602 belonging to the second respondent and insured with the appellant, along with cement bags, driven by its driver, in a rash and negligent manner, all of a sudden, the driver applied sudden break, due to which, the vehicle was capsized. The claimants were sustained injuries. The claimants were taken to Hospital. Thereafter, the claimants have filed separate claim petitions under Section 166 M.V.Act, claiming compensation before the Motor Accidents Claims Tribunal.

4. Before the Tribunal, during trial, in order to prove the case, the claimants have examined 7 witnesses viz., PW1 to PW7 and marked Exs.P1 to P18, On the side of the Insurance Company, one witness was examined and three documents were marked. The Tribunal, considering the pleadings, oral and documentary evidence, allowed the petition in part and awarded compensation to the claimants along with interest. Aggrieved by the said



award, the appellant/insurance company has filed these appeals before this Court for violation of the policy condition.

5. The learned counsel for the appellant/insurance company submitted that the appeals have been filed not on the part of the negligence, for violation of the policy conditions. The Tribunal has passed award contrary to the policy conditions. The Tribunal failed to note that the second respondent has violated the policy conditions by permitting to carry 8 passengers in a goods vehicle and failed to note that the second respondent wilfully violated the policy conditions and provisions of the Motor Vehicles Act by permitting the passengers travelled over top of goods loaded. The learned counsel further submitted that the quantum of compensation awarded by the Tribunal is excessive which warrants interference. In support of the contention, the learned counsel relied upon the decision of the Hon'ble Supreme court reported in 2013 (1)TNMAC 34 (SC).

6. Per contra, the learned counsel for the first respondent/claimants submitted that the Tribunal, after considering the entire materials and witnesses, rightly awarded compensation in favour of the claimants, which is just, fair and reasonable and hence, the same does not require any



interference in the hands of this Court.

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7. Heard the learned counsel for the appellant/insurance company and the learned counsel for the first respondent and also perused the materials available on record.

8. The accident is admitted. The manner of the accident and the insurance policy is not disputed. The respective claimants had sustained injuries due to the accident occurred on 01.07.2008. The main grievance of the appellant is that the accident had occurred due to rash and negligent driving of the driver of the van and the second respondent, who is the owner of the van, allowed eight passengers to travel in the said van by violating the policy condition. Without considering the negligence on the part of the owner of the van, the learned Tribunal has awarded compensation on the contrary to the policy conditions.

9. From the materials on record, it is seen that the first respondent in all the appeals claim that on 01.07.2008 while they were travelling in the van, which was owned by the second respondent, along with the goods, due to the rash and negligent driving of the driver, a van was capsize. On



perusal of the award, it is seen that the owner of the goods was also travelling with goods in the same vehicle.

10. As per Section 147(1)(b)(i) of the Motor Vehicles Act, 1988, the driver, cleaner, employees of insurer and owner of goods or authorized representatives of owner of goods are covered by policy. There is no necessity to pay additional premium to cover the owner of the goods or his authorized representatives. For better appreciation, the said Section is extracted hereunder:

" Section 147(1)(i) provides that in order to comply with the requirements of the said Chapter, an insurance policy would cover any liability incurred by the insured in respect of the death of or bodily injury to any person, including owner of the goods etc. The insurer can and may contract to cover risks and liabilities which he is not bound to under the Act. To put it in other words, he can expand his net of coverage far beyond the statute-imposed limits, but he cannot restrict his net of coverage contrary to the statute."

10. In view of the above, this Court held that as per Section 147(1) of the Motor Vehicles Act, the owner and other passengers are entitled to claim compensation from the Insurance Company and the Insurance Company is



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11. For the above reason, the Tribunal has rightly awarded compensation to the claimants payable by the insurance company, which is perfectly in order and the same does not warrant any interference.

12. With the above discussion, all the appeals are dismissed and the appellant insurance company is directed to deposit entire compensation awarded by the Tribunal along with interest at the rate of 7.5% per annum from the date of petition to till the date of realization within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw the same with interest and costs, by filing necessary applications before the Tribunal. No costs. Consequently. Connected miscellaneous petition is also closed.

10.10.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
rli

To
The Sub Court,
Motor Accident Claims Tribunal,



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Tirupattur.

M.DHANDAPANI,J.

Rli

C.M.A.Nos.1090, 1091,
1092 & 1093 of 2014

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