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CMA.Nos.237 & 1826 of 2022

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

**DATED: 22.11.2023**

**CORAM: JUSTICE N.SESHASAYEE**

**CMA.Nos.237 & 1826 of 2022**

1.Dhanalaxmi  
2.R.Muruganantham ... Appellants in CMA.237/2022  
3.Arumugam ... Appellant in CMA.1826/2022

-Vs-

1.R.Ganesh  
2.Cholamandalam Ms.General Insurance Co.Ltd.,  
2<sup>nd</sup> Floor, Dare House,  
NSC bose Road,  
Chennai – 600 001. ...Respondents in both CMAs

Common Prayer: Civil Miscellaneous Appeals filed under Section 173 of the M.V.Act, 1988, against the decree and judgment dated 07-12-2018 made in MCOP.No.2150 of 2012 and MCOP.No.1643 of 2012 on the file of Motor Accident Claims Tribunal, V Small Causes Court, Chennai.

**In both CMAs**

For Appellant : Mr.S.Ravikumar  
For R1 : No appearance  
For R2 : Ms.Harini for Mr.M.B.Gopalan Associates



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**COMMON JUDGMENT**

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In a road accident that took place on 08.03.2012, a goods carrier carrying as many as 12 load men met with an accident, in which, one of the load man died and another injured. As per the charge sheet filed after the registration of a case in Crime No.109 of 2012 by K4, Anna Nagar PS, these load men were traveling for procuring vegetables from the Koyambedu market. Seeking compensation, both the dependents of the victim who died in the accident and the other injured passenger of the goods vehicle preferred separate claim petitions in MCOP.No.2150 of 2012 and MCOP.No.1643 of 2012 respectively before the Motor Accident Claims Tribunal, V Small Causes Court, Chennai.

2.The claim petitions was contested by the second respondent/insurance company on the ground that the claimants were gratuitous passengers in a goods vehicle at the time when the accident took place and there is no insurance cover. The Tribunal had awarded Rs.13,29,600/- in MCOP.No.2150 of 2012 (fatal accident case) and Rs.1,09,000/- in MCOP.No.1643 of 2012 (injury case). However, the Tribunal exonerated the second respondent/insurance company on the ground that there is no



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policy cover which enables fastening the liability of the owner of the vehicle on the insurance company. This is now under challenge at the instance of the claimants in both the cases.

3.Heard both sides.

4.The entire controversy revolves around construction of Ext.R.5, the insurance policy and also the registration certificate of the goods carrier, marked Ext.R6. In terms of Ext.R6, the goods carrier has a seat capacity of two, including the driver. Therefore, at least one of the two claimants would be entitled to compensation. The only other issue is whether they are gratuitous passengers in the goods vehicle but, they are ultimately the load men traveling to procure the goods.

5.In ***P.Prakash Vs.Thandivelu and another*** [2017 (2) TN MAC 34] this Court had held that even load man who are returning in the Goods Carrier after unloading the goods, should be treated as load men and not as gratuitous passengers. Applying the same analogy, both the claimants in this case must be construed as load men and not as gratuitous



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passengers.

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6. Inasmuch as the second respondent/insurance company is liable to meet the liability at least for one passenger or load man, this Court considers it appropriate to direct it to pay the compensation in MCOP.No.2150 of 2012. So far as the other case of injury is concerned, this Court necessarily needs to direct the claimant to approach the owner of the vehicle for realizing the compensation.

7. In conclusion, this Court allows CMA.No.237 of 2022 and directs the second respondent/insurance company to pay or deposit the entire compensation amount as awarded by the Tribunal with interest at 7.5%, less the interest payable for 257 days, within a period of six (6) weeks from the date of receipt of a copy of this order. On such deposit, the appellants/claimants in CMA.No.237 of 2022 are permitted to withdraw the award amount along with interest and costs, less the amount if any, already withdrawn. No costs.



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8. So far as CMA.No.1826 of 2022 is concerned, the Award of the Tribunal is confirmed and the appeal is dismissed. No costs.

22.11.2023

Tsg

To

1. The Motor Accident Claims Tribunal,  
V Small Causes Court, Chennai.
2. The Section Officer,  
V.R. Section, High Court, Madras.



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**N.SESHASAYEE, J.,**

Tsg

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