WEB COPY

C.M.A.Nos.1633 and 1634 of 2017

M.DHANDAPANI, J.

Today, the matters are listed under the caption "for being mentioned" at the instance of the learned counsel appearing for the appellant/Insurance Company.

2. The learned counsel appearing for the appellant/Insurance Company submits that the Tribunal had ordered the insurer to pay the amount to the claimants and recover the same from the owner of the vehicle, since the policy is an Act Only Policy and in the concluding portion of the judgment, the same has not been explicitly explained. Therefore, she prays for requisite order to be made.

3. This Court perused the judgment and it reveals that a specific stand has been taken by the Insurer that it has been Act only Policy which has not been countered by the claimants and therefore, the Tribunal has awarded the compensation to be paid by the insurer and later recovered from

https://www.mhc.tn.gov.in/judis

WEB COPY

the owner of the vehicle. In the aforesaid circumstances, paragraph Nos.8 and 9 of the judgment shall stand replaced as under:-

> "*8. In this regard, this Court had perused the FIR copy produced by the claimants. A perusal of the same clearly reveals that the claimants were travelling along with the goods, as authorized by the owner of the goods. However, no contra evidence has been adduced by the Insurance Company before the Labour Court to substantiate their claim that the claimants were gratuitous passengers. In the absence of any contra evidence, it cannot be held that the claimants are gratuitous passengers and, therefore, the Appellant/Insurance Company is liable to pay the compensation as ordered by the Tribunal. Since the policy is an Act only Policy, the Tribunal has rightly ordered the insurer to pay the compensation and recover the same from the owner of the vehicle which does not require any interference.*

https://www.mhc.tn.gov.in/judis

WEB COPY

9. For the reasons aforesaid, the appeals deserve to be dismissed and accordingly, these appeals are dismissed directing the appellant to pay compensation to the claimants and recover the same from the owner of the vehicle."

15.11.2024

ssb

https://www.mhc.tn.gov.in/judis

WEB COPY

M.DHANDAPANI, J.

ssb

C.M.A.Nos.1633 and 1634 of 2017

15.11.2024

https://www.mhc.tn.gov.in/judis