



C.M.A.Nos.716, 721 and 723 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.716, 721 and 723 of 2019

M/s.United India Insurance Company Limited,
Netaji Road,
Villupuram Branch.

... Appellant
in all C.M.As

Vs.

1. Kannan
2. Devaraju
4. Subramani
4. Murugan
5. Pachaiyammal
6. Babu
7. A.Abdul Salam
(R7 set exparte in the lower Court)

... Respondents
in C.M.A.No.716 of 2019

1. Pownambal
2. Nagammal
3. Anjalatchi
4. Laxmi
5. A.Abdul Salam
(R5 set exparte in the lower Court)

... Respondents
in C.M.A.No.721 of 2019



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1. Govindasamy
2. Subbammal
3. Karpagam
4. Annakili
5. Malliga
6. A.Abdul Salam
(R6 set exparte in the lower Court)

... Respondents
in C.M.A.No.723 of 2019

COMMON PRAYER : Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the common judgment and decree dated 30.10.2009 made in M.C.O.P.Nos.110, 113 and 130 of 2006 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate Court, Villupuram District, Villupuram.

For Appellant
in all C.M.As : Mrs.R.Sreevidhya

For Respondents : Mrs.R.Raji for R1 and R2 & R6
in all C.M.As No appearance for R3 to R5
R7 - Exparte
in C.M.A.No.716/2019

Mrs.R.Raji for R1 to R4
R5- Exparte in C.M.A.No.721/2019

No appearance for R1 to R5
R6- Exparte in C.M.A.No.723/2019



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COMMON JUDGMENT

The appellant / Insurance Company, aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Villupuram, in M.C.O.P.Nos.110, 113 and 130 of 2006, dated 30.10.2009, has filed these appeals.

2. The claimants in all the appeals are the dependents of the deceased persons who were travelling in Tata Mini Lorry bearing Registration No.TN-32-Y-1641, which was belonging to the first respondent therein for attending the relatives death. The driver of the said vehicle drove the vehicle in a rash and negligent manner and the vehicle fell down in the left side of the road, as a result of which, the deceased persons sustained grievous injuries and died in the hospital. The claim petitions were filed by the dependents of the deceased claiming compensation for the death of the deceased persons.



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3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the vehicle. Having rendered such a finding, the Tribunal proceeded to determine the compensation payable at Rs.2,07,000/- in M.C.O.P.No.110 of 2006, a sum of Rs.3,99,000/- in M.C.O.P.No.113 of 2006 and Rs.1,35,000/- in M.C.O.P.No.130 of 2006. The Tribunal directed the above compensation to be paid by the respondents 1 and 2 jointly and severally with interest at the rate of 7.5% p.a.

4. Questioning the quantum of compensation awarded by the Tribunal, the appellant / Insurance Company has filed these appeals.

5. Heard Mrs.R.Sreevidhya, learned counsel for appellant / Insurance Company and Mrs.R.Raji, learned counsel for the respondents.



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6. This Court carefully considered the submissions made on either side and the materials available on record.

7. This Court also carefully went through the award passed by the Tribunal.

8. The learned counsel for the appellant / Insurance Company submitted that the Tribunal has erred in holding that the appellant / Insurance Company is liable to pay compensation without appreciating the evidence, particularly, the FIR, Policy and Registration Certificate of the vehicle which were marked as Exs.P1 to P3 in view of the fact that the vehicle involved in the accident was a goods vehicle and the persons who were travelling in the said vehicle have gone for attending the obsequies ceremony and enroute the accident had occurred. That apart, the Tribunal has also failed to note that the vehicle was used contrary to the permit and policy conditions and the persons travelling in the vehicle were neither required to be covered nor covered under the policy and as such the



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appellant is not liable to pay the compensation.

9. The learned counsel for the respondents / claimants submitted that the vehicle involved in the accident is not a goods vehicle but a transport vehicle which covered driver plus six passengers and that the Tribunal has rightly had come to the conclusion that the policy conditions were not violated and therefore, the Tribunal was justified in awarding compensation.

10. On going through the award passed by the Tribunal, it is seen that the insurance coverage is extended to number of persons travelling in the vehicle and that the vehicle was not overloaded. As per Ex.P2 - insurance policy, the vehicle was insured with the appellant / Insurance Company. However, the appellant / Insurance Company has not submitted any oral or documentary evidence as to on what basis the passengers were allotted to travel in the vehicle. On a perusal of Ex.P3, under Condition No.3, it is stated that six people apart from driver can travel in the vehicle. Therefore, it is clear that there is no condition stipulated in the policy as to no third party can be allowed to travel in the vehicle. It is further stated that the policy



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conditions will be violated only if more than six persons travel in the vehicle.

Therefore, the number of people who travelled in the vehicle is only three apart from the driver. They had carried the goods required for the obsequies ceremony along with them. Therefore, this Court has no hesitation to hold that the Insurance Company is liable to pay the compensation for the death of the deceased persons and it was rightly concluded by the Tribunal that no policy conditions were violated and hence, the Insurance Company is liable to pay the compensation to the claimants.

11. Finding no merits to interfere with the common impugned award, these Civil Miscellaneous Appeals are dismissed. No costs.

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NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

vji



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To
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1. The Motor Accidents Claims Tribunal,
Chief Judicial Magistrate Court,
Villupuram District,
Villupuram.
2. The Section Officer,
V.R. Section,
High Court,
Chennai.



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