



WEB COPY



C.M.A.No.916 of 2020 and batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. Nos.890, 892, 894, 896, 897, 898, 903, 905, 910,
912, 916, 921, 923, 925 of 2020,
and

C.M.P. Nos.5751, 5756, 5661, 5665, 5669, 5671, 5685,
5692, 5710, 5712, 5719, 5721, 5733 and 5742 of 2020

In C.M.A. No.890 of 2020

Cholamandalam MS General Insurance Company Ltd.,
Hosur,
Krishnagiri District.

... Appellant

vs.

1. Nagaraj
2. R. Srinivasan

.... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and Decree made in MCOP No.67 of 2014, dated 22.03.2019 on the file of the Motor Accidents Claims Tribunal, Additional District Court, Hosur.

For Appellants in all C.M.A.s

:Ms. C. Harini for
M/s.M.B. Gopalan and Associates

For Respondents in C.M.A. Nos.890,
892, 894, 896, 897, 903, 905, 910,
912, 916, 921, 923, 925 of 2020.

: No appearance

For respondents in C.M.A. No.
898 of 2020

: Mr.V. Kumaravelan for R1 to R4
R5 and R5 – No appearance

COMMON JUDGMENT



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Since all these appeals arise out of the same accident and arise out of the same impugned common award, these appeals are disposed of by a common judgement.

2. These appeals have been filed by the Insurance Company challenging its liability to pay compensation to the claimants on the ground that the respondents in C.M.A. Nos.890, 892, 894, 896, 897, 903, 905, 910, 912, 916, 921, 923, 925 of 2020 / claimants and the deceased victim viz., Singhu @ Ramiah were all unauthorised passengers travelling in the insured vehicle and therefore, they are not liable to pay compensation. The respondents 1 to 4 in C.M.A. No.898 of 2020 /claimants are the legal representatives and the dependants of the deceased Singhu @ Ramiah, who died on the date of accident, i.e., 26.10.2011.

3. According to the appellant / Insurance Company, the Tribunal has erroneously directed them to pay compensation despite the fact that the law is well settled by various decisions of this Court including the Division Bench judgement of this Court in ***Bharati Axa General Insurance Co. Ltd., vs. Aandi and others reported in 2018 SCC Online Mad 13295***, wherein, it has been categorically held that in cases of



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unauthorised passengers, the Insurance Company is not liable to pay the compensation.

4. The respondents have been duly served in these appeals and their names are also printed in the cause list today, excepting for one case viz., C.M.A. No.898 of 2020, wherein Mr.V. Kumaravelan, learned counsel has entered appearance for the respondents 1 to 4, the other matters are unrepresented by the respondents.

5. The learned counsel for the appellant / Insurance Company drew the attention of this Court to all the claim petitions filed by the respective claimants before the Tribunal. In all the claim petitions, the injured claimants, themselves have admitted that they were travelling in the insured goods vehicle by paying hire charges. While that be so, it is clear that they are unauthorised passengers as the vehicle involved is a goods vehicle and is not allowed to carry passengers. The law is also well settled by various decisions of this Court including the decision rendered by the Division Bench of this Court in the case of ***Bharati Axa General Insurance Co. Ltd., vs. Aandi and others reported in 2018 SCC Online Mad 13295*** that the Insurance Company is not liable to pay compensation, in case, the claimants are unauthorised passengers in a goods vehicle. In the said decision, the Division Bench has elaborately



considered all the decisions rendered by the Hon'ble Supreme Court and only thereafter has come to such a conclusion. The case on hand is also one such case, where, the Insurance Company has been directed to pay compensation, though the claimants were unauthorised passengers in the insured goods vehicle.

6. This Court has perused and examined the impugned common award. In the said award, contrary to the settled position of law as referred to supra, the Tribunal has directed the appellant / Insurance Company to pay the respective award amounts to the respective claimants and recover the same from the owner of the respective goods vehicle. Therefore, necessarily, the impugned common award passed against the appellant has to be set aside, insofar as the appellant alone is concerned. However, the finding with regard to the owner of the vehicle rendered by the Tribunal remain unaltered.

7. In the result, the impugned award, dated 22.03.2019 passed by the Additional District Court, Hosur in M.C.O.P. Nos.46, 62, 66, 45, 61, 80, 67, 68, 69, 70, 71, 72, 73 and 81 of 2014 against the appellant / Insurance Company alone is set aside and these appeals are allowed. No costs. Consequently, connected miscellaneous petitions are closed.

8. The respective respondents / owner of the vehicle in the



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respective C.M.A.s is directed to deposit the entire amount awarded by the Tribunal together with interest from the date of claim till the date of deposit and costs to the credit of respective MCOPs, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the respective respondents / claimants through RTGS, within a period of two weeks thereafter as apportioned by the Tribunal.

9. The appellant / Insurance Company is permitted to withdraw the amount lying to the credit of the respective M.C.O.P. Nos.46, 62, 66, 45, 61, 80, 67, 68, 69, 70, 71, 72, 73 and 81 of 2014 before the Tribunal, which they have deposited at the time of filing of these appeals.

04.04.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
vsi2

ABDUL QUDDHOSE, J.



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vsi2

To

1. The Additional District Court,
Motor Accidents Claims Tribunal,
Hosur.

2. The Section Officer,
V.R. Section, High Court of Madras,
Chennai – 104.

C.M.A. Nos.890, 892, 894, 896,
897, 898, 903, 905, 910,
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