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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)Nos. 918 & 919 of 2013

and

M.P(MD)Nos. 1 & 1 of 2013

C.M.A(MD)No. 918 of 2013

National Insurance Company Limited,
No.33, Promenade Road, Cantonment,
Tiruchy – 620 001.

... Appellant

Vs.

1. M. Alagi

2. M. Sanjeevi

... Respondents

C.M.A(MD)No. 919 of 2013

National Insurance Company Limited,
No.33, Promenade Road, Cantonment,
Tiruchy – 620 001.

... Appellant

Vs.

1. V. Pakkiyam

2. M. Sanjeevi

... Respondents



COMMON PRAYER: Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicles Act, against the Order and Decree dated 31.10.2007 passed in M.A.C.O.P.Nos.265 & 287 of 2004 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Tiruchirappalli.

In both CMAs.

For Appellant : M/s.S.Ramachandran

For Respondents : No appearance – R-1
R-2 Died (Steps due)

COMMON JUDGEMENT

The Insurance Company has preferred these Appeals against the Order and Decree, dated 31.10.2007 passed in M.A.C.O.P.Nos.265 & 287 of 2004 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Tiruchirappalli.

2. It is seen from the records that the accident occurred on 21.07.2023. The contention of the Insurance company is that the owner of the Mini Door lorry has violated the terms and conditions of the policy since he had allowed the passengers to travel when the van is a good carriage vehicle.



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3. In the said accident, some persons died and some injured and several Civil Miscellaneous Appeals were filed for the same accident. Totally four Civil Miscellaneous Appeals have filed against the Tribunal order. Already, this Court had passed Pay and Recovery order dated 16.03.2017 in C.M.A(MD)Nos. 134 to 137 of 2012. The relevant portion of the Judgment is extracted hereunder:

...

“V. That it is open to the first respondent/claimant to recover the compensation amount awarded, from the second respondent/owner of the vehicle.”

4. Therefore, following the same, this Court is directing the Insurance company to pay the compensation and recover the same from the original owner of the vehicle.

5. It is seen from the records that already R-1 died and steps is due. Since this case is pending more than 11 years, this Court is not inclined to implead the legal heirs of the 1st respondent. However the legal heirs is at liberty to contest the case at the stage of Execution Petition.



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6. With the above terms, these Civil Miscellaneous Appeals are partly allowed. The Insurance Company is directed to deposit the entire compensation amount granted by the Tribunal in M.A.C.O.P Nos. 265 & 287 of 2004, with 7.5% interest along with costs, within a period of 8 weeks from the date of receipt of copy of this Judgment, less the amount if already deposited. On such deposit being made, the claimants are permitted to withdraw the same, as per Law. After depositing the same, the Insurance Company is entitled to recover the same from the Legal Heirs of the owner of the vehicle/2nd respondent herein and the legal heirs are at liberty to contest as per law. No Costs. Consequently, connected miscellaneous petitions are closed.

10.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1. The Motor Accident Claims Tribunal/
Chief Judicial Magistrate Court,
Tiruchirappalli.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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**Common Judgment made in
C.M.A(MD)Nos. 918 & 919 of 2013**

10.06.2024