



C.M.A.(MD) No.604 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.604 of 2019

Alagarsamy.

... Appellant

Vs.

1.Jeganraja,
2.Branch Manager,
National Insurance Company Limited,
T.S.No.4132, East Main Road,
Pudukottai Town & District.

... Respondents

Prayer: Civil Miscellaneous Appeal filed under 173 of the Motor Vehicle Act, 1988, against the judgment and decree dated 12.02.2019 passed in M.C.O.P.No.184 of 2014 on the file of the Motor Accidents Claims Tribunal/Additional District Court, Pudukottai.

For Appellant	: Mr.N.Balakrishnan
For Respondents	
for R1	: Given up
for R2	: Mr.J.S.Murali

J U D G M E N T

The instant appeal has been filed challenging the finding on liability.



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2. The appellant/claimant filed a claim petition stating that on 13.01.2014 at about 8.00 p.m., while he was traveling in the goods vehicle, bearing Reg.No.TN-55-AB-1624, insured with the second respondent herein, the driver drove the same in a rash and negligent manner, as a result of which, the vehicle collapsed and the appellant/claimant sustained grievous injuries.

3. The second respondent filed a counter denying the averments in the claim petition and stated that in any case, the claim made by the appellant was excessive.

4. The owner of the vehicle/first respondent remained *ex parte* before the Tribunal.

5. Before the Tribunal, the appellant examined himself as P.W.1 and another witness, namely, Rajammal, as P.W.2 and marked Exs.P1 to P11. The second respondent examined two witnesses as R.W.1 and R.W.2 and marked Exs.R1 and R2.

6. The Tribunal, after considering the oral and documentary



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evidence, awarded the compensation of Rs.75,000/- to the appellant herein; however, directed the first respondent/owner of the vehicle to pay the compensation since the first respondent had violated the policy conditions by allowing unauthorised passengers to travel in the goods vehicle.

7. The learned counsel for the appellant/claimant submitted that the issue is covered by the judgment of this Court in ***Manjula and others vs. M.Sakthivel and others reported in (2019) 2 TN MAC 188***, wherein this Court has observed that Rule 236 of the Tamil Nadu Motor Vehicles Rules, 1989, permits six persons to travel in the goods vehicle.

8. The learned counsel for the second respondent/Insurance Company, per contra, submitted that the finding of the Tribunal holding that the owner of the vehicle is liable to pay compensation is in accordance with law and no interference is called for.

9. The only point for consideration in the instant appeal is ‘*whether the second respondent is liable to pay the compensation?*’



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10. The evidence adduced on either side shows that six persons traveled in the goods vehicle. Under similar circumstances, this Court in **Manjula**'s case (cited supra), by quoting Rule 236 of the Tamil Nadu Motor Vehicles Rules, 1989, which permits six persons to travel in a goods vehicle, held that merely because six persons travelled in a goods vehicle, they would not become unauthorised passengers.

11. The relevant observation of the judgment of this Court in **Manjula**'s case (cited supra) is extracted herein:

“24. Section 147(1) of the Motor Vehicles Act was amended in the year 1994 by Act 54 of 1994, which came into effect from 14.11.1994. As per amendment to Section 147 of the Motor Vehicles Act, the owner of goods as well as his Authorized Representatives are covered by the policy issued by the Insurance Company. As per permit condition, only three persons can travel in the Cabin. In the present case, the respondents have not substantiated their contention that two persons were already travelling in the Cabin. As per Rule 236 of Tamil Nadu Motor Vehicles Rules, six persons can travel in goods vehicle. The issue whether



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the Insurance Company is liable to pay compensation for owner of goods, who travelled in the goods vehicle along with goods, was considered by this Court in the judgments referred to above relied on by the learned counsel for the appellants.”

12. In the light of the evidence on record, that six persons traveled in the goods vehicle and in view of the aforesaid judgment, this Court is of the view that the second respondent is liable to pay the compensation. Therefore, the award of the Tribunal is modified to the extent of holding that the second respondent is liable to pay the compensation.

13. The second respondent shall, therefore, deposit the compensation amount of Rs.75,000/- with accrued interest at 7.5% p.a., from the date of the claim petition till the date of realization (excluding the period of dismissal for default if any) and costs, less the amount already deposited, if any, within a period of four (4) weeks from the date of receipt of a copy of this order.

14. On such deposit, the appellant/claimant is entitled to withdraw



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the aforesaid amount together with proportionate interest and costs, less the amount already withdrawn, if any, by filing an appropriate application before the Tribunal.

15. In the result, this Civil Miscellaneous Appeal is allowed. No costs.

03.09.2024

Index: Yes/ No
NCC: Yes / No
Speaking Order / Non-Speaking Order
apd

To:
1.Motor Accidents Claims Tribunal/Additional District Court,
Pudukottai.

2.The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

apd

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