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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.06.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

**C.M.A(MD)Nos. 158, 159, 182 to 184,
199, 200, 772 & 931 of 2014**

C.M.A(MD)No.158 of 2014

The Branch Manager,
Royal Sundaram Alliance Insurance Company Limited,
T.V.S. Cooperative Stores Building,
Krishna Rao, Theppakulam Street,
Madurai – 625 001.

... Appellant

Vs.

1. R.Vellaichamy

2. K. Pattani

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the fair and decretal order, dated 14.08.2013 made in M.C.O.P.No.803 of 2011 on the file of the Motor Accident Claims Tribunal (Chief Judicial Magistrate), Madurai and allow this Appeal.

For Appellant : M/s.S.Srinivasaragavan

For Respondents : No Appearance

COMMON JUDGEMENT

The Insurance company has preferred these appeals to set aside the award of compensation passed by the Tribunal.



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2. The alleged accident had occurred on 20.11.2010. It is a case of injury in all the Civil Miscellaneous Appeals. The contention of the Appellant/ Insurance Company is that all the persons had travelled as unauthorised / gratuitous persons in the lorry. Even though, the victims have claimed that they had travelled in the lorry in order to cut wood logs, but there is no iota of evidence before the Tribunal. Infact, the Tribunal has accepted the case of the Insurance Company and rendered a finding that all the passengers are unauthorised / gratuitous persons and they are not load-man or owner of the goods. When the finding is categorical, the Tribunal has erred in fixing the liability on the Insurance Company to granting compensation. But the owner of the vehicle is solely liable to pay compensation to all the claimants. Therefore, liability cannot be fixed on the Insurance company.

3. By taking all these facts into consideration, the award passed by the Tribunal are hereby set aside. The injured persons/claimants shall claim compensation from the owner of the vehicle who is shown as 2nd respondent herein in all the Civil Miscellaneous Appeals. At the time of admission, the Insurance company has already deposited the entire amount. The Insurance company is permitted to withdraw the same.



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4. With these observations, these Civil Miscellaneous Appeals are allowed. No Costs.

14.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
KSA

To

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



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S.SRIMATHY, J.

KSA

**Common Order made in
C.M.A(MD)Nos. 158, 159, 182 to 184,
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