



C.M.A.(MD).Nos.959 and 960 of 2024 and C.R.P.(MD).Nos.1776 and 1777 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 31.07.2024

DELIVERED ON : 11.09.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.M.A.(MD).Nos.959 and 960 of 2024 and C.R.P.(MD).Nos.1776 and 1777 of 2024
and C.M.P.(MD).Nos.10152, 10153, 10139 and 10144 of 2024

C.M.A.(MD).No.959 of 2024

United India Insurance Co.Ltd.,
Pallivasal Street,
Perampalur

... Appellant/2nd Respondent

/Vs./

1.P.Mani

... Respondent No.1/Petitioner

2.A.Veeramani

... Respondent No.2/1st Respondent

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the Judgment and decree dated 28.07.2008 passed in M.A.C.O.P.No.2666 of 2001 on the file of the Motor Accidents Claims Tribunal (Additional District Judge) (Fast Track Court), Tiruchirappalli.

For Appellant : Mr.G.Prabhu Rajadurai



C.M.A.(MD).Nos.959 and 960 of 2024 and C.R.P.(MD).Nos.1776 and 1777 of 2024

C.M.A.(MD).No.960 of 2024

United India Insurance Co.Ltd.,
Pallivasal Street,
Perampalur

... Appellant/2nd Respondent

/Vs./

1.Sakthivel

... Respondent No.1/Petitioner

2.A.Veeramani

... Respondent No.2/1st Respondent

PRAYER : Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the Judgment and decree dated 28.07.2008 passed in M.A.C.O.P.No.2667 of 2001 on the file of the Motor Accidents Claims Tribunal (Additional District Judge) (Fast Track Court), Tiruchirappalli.

For Appellant : Mr.G.Prabhu Rajadurai

C.R.P.(MD).No.1776 of 2024

United India Insurance Co.Ltd.,
Pallivasal Street,
Perampalur

... Appellant/2nd Respondent

/Vs./

1.Gopal

... Respondent No.1/Petitioner

2.A.Veeramani

... Respondent No.2/1st Respondent

PRAYER : Civil Revision Petition is filed under Section 227 of the Constitution of India, to set aside the Judgment and decree dated



C.M.A.(MD).Nos.959 and 960 of 2024 and C.R.P.(MD).Nos.1776 and 1777 of 2024

28.07.2008 passed in M.A.C.O.P.No.2664 of 2001 on the file of the Motor Accidents Claims Tribunal (Additional District Judge) (Fast Track Court), Tiruchirappalli.

For Appellant : Mr.G.Prabhu Rajadurai

C.R.P.(MD).No.1777 of 2024

United India Insurance Co.Ltd.,
Pallivasal Street,
Perampalur

... Appellant/2nd Respondent

/Vs./

1.Seenu @ Alagarsamy
2.A.Veeramani

... Respondent No.1/Petitioner
... Respondent No.2/1st Respondent

PRAYER : Civil Revision Petition is filed under Section 227 of the Constitution of India, to set aside the Judgment and decree dated 28.07.2008 passed in M.A.C.O.P.No.2661 of 2001 on the file of the Motor Accidents Claims Tribunal (Additional District Judge) (Fast Track Court), Tiruchirappalli.

For Appellant : Mr.G.Prabhu Rajadurai

COMMON JUDGMENT

C.M.A.(MD).Nos.959 & 960 of 2024 have been directed against the Judgments and decree dated 28.07.2008 passed in M.A.C.O.P.Nos. 2666 & 2667 of 2001 on the file of the Motor Accidents Claims Tribunal



C.M.A.(MD).Nos.959 and 960 of 2024 and C.R.P.(MD).Nos.1776 and 1777 of 2024

(Additional District Judge) (Fast Track Court), Tiruchirappalli.

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C.R.P.(MD).Nos.1776 & 1777 of 2024, have been filed against the Judgments and decree dated 28.07.2008 passed in M.A.C.O.P.Nos.2664 & 2661 of 2001 on the file of the Motor Accidents Claims Tribunal (Additional District Judge) (Fast Track Court), Tiruchirappalli.

2.The facts in brief:

On 09.09.2001 at about 05.30 p.m. the claimants in all petitions numbering about 4 purchased goats in Ariyalur market and loaded the goats in the vehicle bearing registration No.TN 45 A 4919 and travelled along with the goats as owners in that vehicle. The vehicle was driven by the first respondent's vehicle's driver. The first respondent's vehicle driver lost the control and because of the rash and negligent driving, the vehicle capsized. As a result of which, all the claimants suffered grievous injuries and goats also got injured. A case in Crime No.370 of 2001 was registered against the first respondent's vehicle driver on the file of the Keelapalur Police Station. Claiming compensation the claim applications have been filed by the claimants in M.C.O.P.No.2661, 2664, 2666 and 2667 of 2001. The claimant in



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M.C.O.P.No.2667 of 2001 and 2664 of 2001 claim Rs.1,50,000/- each.

The claimant in M.C.O.P.No.2666 of 2001 claims Rs.5,00,000/-. The claimant in M.C.O.P.No.2667 of 2001 claims Rs.8,00,000/-.

3.The above said petitions were resisted by the Insurance company by filing counter stating that the claimants travelled in the vehicle only as a gratuitous passengers and cattle cannot be transported in a goods carriage. Apart from that other customary denials were made.

4.All the claim applications were tried together. Evidences were recorded in M.C.O.P.No.2667 of 2001 and common order was passed by the Tribunal.

5.Regarding the first point of negligence, it was found that because of the rash and negligent driving on the part of the first respondent's vehicle's driver, the occurrence took place and accordingly, it fastened the liability upon the Insurance Company also.

6.Regarding the compensation amount for the claimants in



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M.C.O.P.Nos.2661 & 2664 of 2001, the wound certificate was marked as Exs.P2 and P3. Considering the nature of injuries suffered by them and on the basis of the evidence given by PW3 and PW4, compensation amount of Rs.7,000/- each was ordered for those two claimants.

7.In respect of M.C.O.P.No.2666 of 2001, taking into account the partial permanent disability of 27% Rs.75,000/- was awarded as compensation for the disability and to that the customary amounts were added and finally awarded Rs.2,55,000/-.

8.In respect of M.C.O.P.No.2667 of 2001, the disability was fixed at 86% and for 1 percent Rs.1,000/- was fixed and Rs.86,000/- was awarded as compensation. To that other customary amounts were added. Finally it awarded Rs.2,51,000/- as compensation.

9.Challenging the same, two appeals and two revisions were preferred by the Insurance Company, on the ground that it is a goods carriage, in which, the gratuitous passengers are not permitted and goats are living cattle, it cannot be transported in goods carriage. So it is



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violation of policy conditions, for which, the Insurance Company cannot be liable.

10.The perusal of the award passed by the Tribunal, itself indicates that Rs.50 was collected towards premium amount for the owner of the goods. Against the policy conditions 10 persons were carried in the vehicle. Apart from that goats were carried, which is not permissible under law. But however, since the premium was collected, the Insurance Company was directed to pay the compensation and claim the same from the Insured.

11.As observed by the Tribunal, it is a clear violation of policy conditions and as well as the Motor Vehicles Act. The cattle cannot be transported in the vehicle, which is entitled for carrying goods alone. But, however, premium was collected for owner of the goods. So noting that there is violation of policy conditions, Insurance Company was directed to pay and recover the amount from the Insurer. But, the Insurer remained exparte before the Tribunal. There is no appeal by the claimants.



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12.A report was called for from the Tribunal as to whether amount was deposited and Report dated 26.07.2024 received from the Tribunal, which reads that in respect of M.C.O.P.No.2661 of 2021, the amount was disbursed and in respect of M.C.O.P.No.2664 of 2021 also amount was disbursed. In respect of M.C.O.P.No.2666 of 2001, entire amount was withdrawn and in respect of M.C.O.P.No.2667 of 2021 a sum of Rs.1,82,704/- was withdrawn by the claimant and balance amount of Rs.2,86,870/- is available in the Bank deposit.

13.The occurrence took place in the year 2001 namely on 09.09.2001, now we are in the year 2024. About 23 years lapsed and there was huge delay on the part of the Insurance Company in prosecuting the appeal. At the length of the time, it may not be proper on the part of this Court to set aside the award. So far as directing the appellant herein to pay and recover the same from the Insurer, without going into other aspects, I am of the considered view that the right of the appellant has been properly protected by the award. So they can proceed against the first respondent in the main petition, since the amount has



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been satisfied. I find no reason to interfere in the awards passed in all these matters, which are found just reasonable, considering the nature of injuries suffered by the claimants. Since only the issue of liability is now exists, as mentioned above, the appellant's right has been duly protected that may be complied by the appellant herein. So the appeal as well as the revisions are liable to be dismissed.

14. Accordingly, both civil miscellaneous appeals are dismissed as well as the both civil revision petitions are also dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

11.09.2024

Index : Yes / No
Internet : Yes / No
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To

1. The Additional District Judge, Motor Accidents Claims Tribunal,
(Fast Track Court), Tiruchirappalli.
2. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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