BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	07.11.2025
Pronounced on	20.11.2025

CORAM:

THE HONOURABLE **MS.JUSTICE R.POORNIMA**

C.M.A(MD)No.1262 of 2005

The Divisional Manager,
National Insurance Company Limited,
Manojippa Stret,
Thanjavur. ...Appellant/2nd Respondent

-Vs-

1.Govindharaj ... Respondent/Petitioner
2.M.Mohamed Syed ... Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 Motor Vehicles Act, 1988, against the order and decree dated 24.09.2004 passed in M.C.O.P.No. 178 of 2003 on the file of the Motor Accidents Claims Tribunal, Fast Track Court No.2, Pattukkottai.

For Appellant : Mr.D.Sivaraman

JUDGMENT

Being aggrieved over the award passed by the Motor Accidents Claims Tribunal, Fast Track Court No.2, Pattukkottai, in M.C.O.P.No.178 of 2003, the Insurance Company has filed the present appeal.

2. Brief facts of the case, which are necessary for disposal of the appeal is that: on 01.01.2003 the first respondent herein and the petitioner in M.C.O.P.No. 303 of 2003 along with two others went to Muthupettai for buying goats. After buying 14 goats, they were returning in a load auto bearing Registration No.TN-5B-7839, which was owned by the second respondent, insured with the appellant. On the same day, at about 1.15 p.m., the driver of the load auto driven the vehicle in a rash and negligent manner and capsized the vehicle, tried to over take a parked lorry. Due to the said impact, the first respondent sustained serious injuries viz., fracture of his left shoulder and leg and right hand wrist. Immediately they were taken to Pattukkottai Government Hospital, for taking treatment as inpatient for which on FIR was registered in crime no. 1 of 2003. under section 279, 337 IPC against the driver of the auto. Alleging that the driver of the load auto was responsible for the said accident, the claimant laid a petition claiming compensation of Rs.1,50,000/-.

3. Resisting the claim, the appellant Insurance Company filed a counter affidavit disputing the liability to pay compensation.

4. To substantiate the case, the claimant examined two witnesses and marked seven documents as Ex.P1 to Ex.P7. On the side of the appellant Insurance Company, one witness was examined and marked one document as Ex.R1.

5. The Tribunal, after considering the evidence of the claimant as well as the respondents, came to the conclusion that the driver of the load auto bearing Registration No.TN-50-B-7839 was responsible for the accident and directed the appellant and the second respondent/ the owner herein jointly and severally to pay a compensation of Rs.48,500/- along with interest at 9% p.a., out of which, a sum of Rs.20,000/- should be deposited in any one of the nationalized bank for a period of three years and the first respondent is permitted to get interest once in six months from the bank. Challenging the said award, the present appeal is filed.

6. The appellant Insurance Company has filed the appeal only challenging the liability and they have not disputed the quantum awarded by the Tribunal and the manner of the accident.

7. The learned counsel for the appellant/Insurance company submitted that the first respondent/claimant herein was an unauthorized passenger in the load auto. He further submit that the first respondent has violated the policy condition and permit rules, hence, the appellant Insurance Company is not liable to pay compensation. He further submitted that the goods were not belonged to the first respondent herein and the driver of the offending vehicle carried the goods along with the persons over the capacity of the vehicle. Hence, violated the policy condition.

8.Heard Mr.D.Sivaraman, learned counsel appearing for the appellant and perused the materials available on record.

9.Soon after the accident one of the occupant of the auto lodged the complaint against the driver of the auto there is no delay in lodging the FIR.

10.It is evident that the claimants are the owner of the goods. As per section 147 of the Motor Vehicles Act, 1988, the owner of the goods or his authorised representative is permitted to travel in the goods vehicle. In the present case it has not proved that the claimants are gratuitous passenger, therefore they cannot be treated as unauthorized occupants. R.W.1, the Administrative Assistant of the insurance company has admitted in his chief examination that the vehicle involved in the accident is a goods carrying vehicle. During cross examination it was admitted that the owner of the goods have right to travel along with the goods and the insurance company is liable to pay compensation. Consequently it stands proved that there is no violation of the policy condition and the insurance policy was very much in force on the date of the accident.

11.Considering the evidence of P.W.2, Ex.P.2 and Ex.P.3, the award of the Tribunal is fair and reasonable and the same is confirmed.

12.In the result, the Civil Miscellaneous Appeal stands dismissed. The appellant Insurance Company, shall deposit the entire award amount to the credit of M.C.O.P.No.178 of 2003 on the file of the Motor Accidents Claims Tribunal, Fast Track Court No.2, Pattukkottai, within a period of eight weeks from the date of receipt of a copy of the judgment, if the amount is not deposited already. On such deposit, the first respondent/claimant is permitted to withdraw the entire award amount, less the amount already withdrawn if any. No costs.

20.11.2025

Index:Yes/No
NCC:Yes/No

R.POORNIMA, J.

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To
1.The Motor Accident Claims Tribunal,
Additional District Court/
Fast Track Court No.2,
Tirunelveli.

2.The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

C.M.A(MD)No.1262 of 2005

20.11.2025