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CMA.Nos.42 & 1870 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-07-2026

CORAM

THE HON'BLE MR JUSTICE N. ANAND VENKATESH

Civil Miscellaneous Appeal Nos.42 & 1870 of 2023

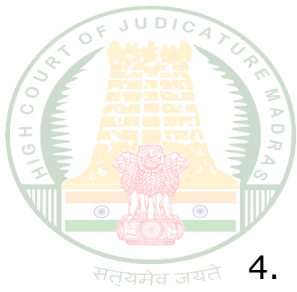
CMA No.42 of 2023 :

K.Selvakumar, S/O. G.Kanniappan,
D.No.14/17, Parameswaran Street,
Gandhi Nagar, Kasipalayam Post,
Gobi Taluk & now residing at D.No.29,
Sahan Street, Karungalpalayam,
Erode - 638003.

...Appellant

Vs

1. V.Sethuraman
S/O. Venkataraman,
Sankarapalayam Village,
Anthiyur, Bhavani Taluk,
Erode District.
2. The Reliance Insurance Co.Ltd.,
570, Rectifier House,
Nelcom Cross Road, Vathala (W),
Mumbai - 400031.
Branch Office at Sakthi Super Market
Complex, Perundurai Main Road,
District Collector Office, Erode - 11.
3. A.Sharmila, W/O. Ramesh,
No.140, Slatter Nagar,
Karumandisellipalayam,
Perundurai Taluk, Erode District.



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4. M/s.IFFCO TOKIO General Insurance Co.Ltd., Branch Office, Tulsi Complex, III Floor, No.193, T.V. Samy Road, West, R.S.Puram, Coimbatore - 2.

...Respondents

CMA.No.1870 of 2023 :

1. C.Krishnasamy @ Durai
S/o. Chinnasamy, Residing at No.139, Kurangu Kuttai, Kuppaikaadu, Kanthasamy Chetty Thottam, Erode-3.
2. K.Rathina @ Rathinammal
W/o. C.Krishnasamy @ Durai, Residing at No.139, Kurangu Kuttai, Kuppaikaadu, Kanthasamy Chetty Thottam, Erode-3.

...Appellants

Vs

1. V.Sethuraman,
S/o. Venkataraman,
Sankarapalayam Village,
Anthiyur, Bhavani Taluk,
Erode District.
2. The Reliance General Insurance Co.Ltd., 570, Rectifier House, Nelcom Cross Road, Vathala (W), Mumbai-400 031.
Branch Office at Sakthi Super Market Complex, Perundurai Main Road, District Collector Office Post, Erode-11.
3. A.Sharmila
W/o. Ramesh, No.140, Slatter Nagar, Karumandisellipalayam, Perundurai Taluk,



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Erode District.

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4. M/s.Iffco Tokio General Insurance Co.Ltd., Branch Office, Tulsi Chambers, III Floor, No.193, T.V.Samy Road, West, R.S.Puram, Coimbatore-2.

...Respondents

APPEALS under Section 173 of the Motor Vehicles Act, 1988
against

(i) the award dated 02.9.2022 made in MCOP.No.522 of 2017 on the file of the Motor Accidents Claims Tribunal (Special Sub-Court), Erode (CMA.No.42 of 2023);

(ii) the award dated 08.4.2022 made in MCOP.No.557 of 2017 on the file of the Motor Accidents Claims Tribunal (Special District Court to deal with MCOP Cases), Erode (CMA.No.1870 of 2023).

For Appellants in
both CMAs:

Mr.S.Kaithamalai Kumaran

For Respondents in
both CMAs:

Ms.C.Bhuvana Sundari for R2 in
both CMAs

Mr.Michael Visuvasam for R4 in
CMA.No.42 of 2023

Mr.S.Arunkumar for R4 in
CMA.No.1870 of 2023



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CMA.Nos.42 & 1870 of 2023

Batta with grounds due for
R1 & R3 in CMA.No.42 of 2023

R1 & R3 in CMA.No.1870 of
2023 – served & no appearance

COMMON JUDGMENT

CMA.No.42 of 2023 has been filed by the appellant – claimant as against the award dated 02.9.2022 made in MCOP.No.522 of 2017 on the file of the Motor Accidents Claims Tribunal (Special Sub-Court), Erode.

2. CMA.No.1870 of 2023 has been filed by the appellants – claimants as against the award dated 08.4.2022 made in MCOP. No.557 of 2017 on the file of the Motor Accidents Claims Tribunal (Special District Court to deal with MCOP Cases), Erode.

3. In so far as CMA.No.42 of 2023 is concerned, the appellant - claimant, who is the injured, is questioning the rejection of the claim petition and the finding of the Tribunal concerned exonerating the respondents from the liability on the ground that the pillion rider was not covered under the policy.



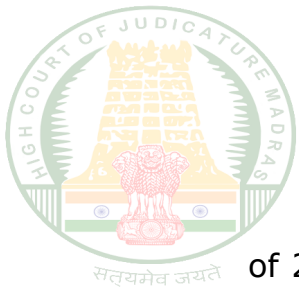
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4. In so far as CMA.No.1870 of 2023 is concerned, the appellants – claimants are questioning the rejection of the claim petition in MCOP.No.557 of 2017.

5. The case of the appellants - claimants is as follows:

(i) On 29.7.2009, one Mr.Ragu Kumar (a) Ragu (since deceased) was riding a two wheeler – Yamaha Motor Cycle owned by the third respondent and insured with the fourth respondent and Mr.Selvakumar (claimant in MCOP.No.522 of 2017) was travelling as a pillion rider at Gobi – Sathy Main Road. At about 5 PM, the offending vehicle, which was also a two wheeler – Appache Motor Cycle that was driven by one Mr.C.Saravanan, owned by the first respondent and insured with the second respondent, was driven in a rash and negligent manner and dashed on the two wheeler ridden by the said Mr.Ragu Kumar (a) Ragu, as a result of which, all the persons travelling in both the motor vehicles were thrown out. The riders of both the motor vehicles namely the said Mr.Ragu Kumar (a) Ragu as well as the said Mr.C.Saravanan died on the spot. The said Mr.Selvakumar, who was the pillion rider of the Yamaha Motor Cycle, sustained injuries. A first information report in Crime No.183

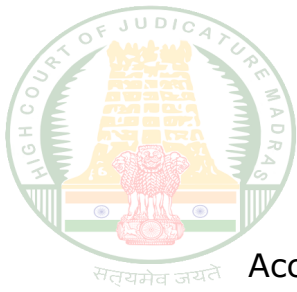


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of 2009 was registered before Kadathur Police Station. It was under those circumstances, the claim petition in MCOP.No.522 of 2017 came to be filed before the Tribunal concerned by the injured – the said Mr.Selvakumar. The parents of the deceased – the said Mr.Ragu Kumar (a) Ragu – appellants in CMA.No.1870 of 2023 filed the claim petition in MCOP.No.557 of 2017 on the file of the Tribunal concerned.

(ii) The Tribunal concerned, on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, came to the conclusion that the claimants approached it nearly after eight years from the date of accident. The Tribunal concerned found that the deceased – the said Mr.Ragu Kumar (a) Ragu was the one, who was riding the vehicle in a rash and negligent manner and that the other connected claim petition in MCOP.No.383 of 2011 filed by the legal heirs of other deceased – one Mr.C.Saravanan, who died in the same accident, was ordered on 13.6.2014 on the ground that the deceased – the said Mr.Ragu Kumar (a) Ragu, who drove the Yamaha Motor Cycle on the wrong side, dashed on the Apache Motor Cycle ridden by the other deceased – the said Mr.C.Saravan, who came in the right direction.



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Accordingly, MCOP.No.557 of 2017 was dismissed on 08.4.2022.

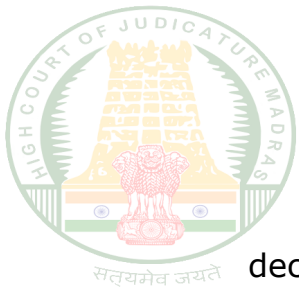
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(iii) In so far as MCOP.No.522 of 2017 is concerned, the Tribunal concerned found that the third party was not covered under the policy, that there was a coverage only for a rider and that therefore, the respondents was exonerated from the liability. Ultimately, the Tribunal concerned dismissed MCOP.No.522 of 2017 on 02.9.2022.

(iv) Aggrieved by that, the claimant in MCOP.No.522 of 2017 – Mr.K.Selvakumar filed CMA.No.42 of 2023. The parents of the deceased – the said Mr.Ragu Kumar (a) Ragu – claimants in MCOP. No.557 of 2017 filed CMA.No.1870 of 2023.

6. This Court has carefully considered the submissions of the learned counsel on either side and perused the material available on record and more particularly the impugned awards.

7. In so far as CMA.No.1870 of 2023 is concerned, the finding rendered by the Tribunal concerned justifying the rejection of the claim petition in MCOP.No.557 of 2017 does not suffer from any perversity. This Court has to take into consideration the fact that the



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deceased – the said Mr.Ragu Kumar (a) Ragu was found to be a tortfeasor in the other claim petition filed in MCOP.No.383 of 2011 and this finding has also become final by virtue of the dismissal of the appeal filed by the Insurance Company namely the fourth respondent. Hence, the award dated 08.4.2022 in MCOP.No.557 of 2017 does not require the interference of this Court.

8. In so far as CMA.No.42 of 2023 is concerned, the policy in question is a comprehensive policy and the appellant – claimant, who is none other than the injured in this case, was travelling as a pillion rider and he should be considered as a third party. But, the Tribunal concerned rendered a finding that there was no coverage for the third party and that the coverage confined itself only to the driver. This finding rendered by the Tribunal concerned may not be sustainable since a careful look at the insurance policy – Ex.R3 would show that it was a comprehensive policy and that it also covered the claimant, who was a pillion rider. In fact, such a finding was rendered by the Tribunal concerned. In the light of the above discussions, the Insurance Company namely the fourth respondent has to be necessarily saddled with the liability.



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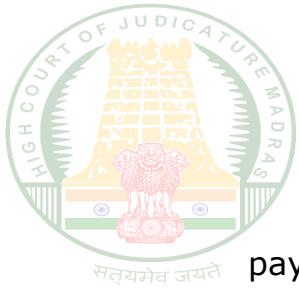
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9. The accident in this case took place in 2009. Ex.P.2 – accident register has been marked apart from an X-Ray marked as Ex.P.6. In respect of MCOP.No.522 of 2017, the injuries have been described in the claim petition as the injuries sustained in the face. Considering the fact that the accident had occurred in 2009, no useful purpose will be served in remanding the case to the Tribunal concerned to decide the compensation amount. This Court is inclined to fix a lumpsum compensation amount of Rs.50,000/- payable by the fourth respondent – Insurance Company to the claimant in MCOP.No.522 of 2017.

10. In the result,

(i) CMA.No.1870 of 2023 is dismissed by confirming the award dated 08.4.2022 made in MCOP.No.557 of 2017 on the file of the Motor Accidents Claims Tribunal (Special District Court to deal with MCOP Cases), Erode; and

(ii) CMA.No.42 of 2023 is partly allowed and there shall be a direction to the fourth respondent – Insurance Company to deposit a lumpsum compensation of Rs.50,000/- together with interest at the rate of 7.5% per annum from the date of petition till date of actual



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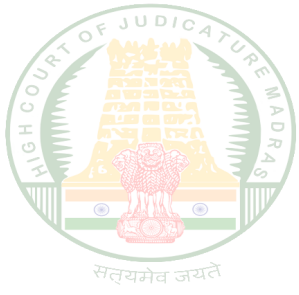
payment, within four weeks from the date of receipt of a copy of this judgment. No costs.

20-07-2026

To

- 1.The Motor Accidents Claims Tribunal
(Special District Court to deal
with MCOP Cases), Erode.
- 2.The Motor Accident Claims Tribunal
(Special Sub Court), Erode.
- 3.The Reliance Insurance Co.Ltd.,
570, Rectifier House, Nelcom
Cross Road, Vathala (W),
Mumbai - 400031.
Branch Office at
Sakthi Super Market Complex,
Perundurai Main Road,
District Collector Office,
Erode - 11.
- 4.IFFCO TOKIO General Insurance
Co.Ltd., Branch Office, Tulsi Complex,
III Floor, No.193, T.V. Samy Road,
West, R.S.Puram, Coimbatore - 2.

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