



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2016

Coram:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WEB COPY

C.M.A(MD)Nos.610 to 616 of 2013

and

M.P. (MD)No.1 of 2013(In all C.M.As)

The Oriental Insurance Co. Ltd.,
M.G.Road, Larripettai,
Vijayawada - 10.

.. Appellant/ 2nd Respondent
in all the CMAs

-Vs-

1. Sakunthala Ammal
2. Baskaran
3. Sundaramoorthy

.. 1 to 3rd Respondents/ 1 to 3rd Petitioners

4. Jayalakshmi
5. Jamila Bibi

.. 4th Respondent / 1st Respondent
.. 5th Respondent / 3rd Respondent

6. National Insurance Company Limited,
33, Promenade Road,
Cantonment, Trichy.

.. 6th Respondent/4th Respondent
in CMA(MD). 610/ 2013

1 SUBRAMANI

2 JAYALAKSHMI

(2nd Respondent remained Ex-parte before the Lower Court)

3 JAMILA BIBI

4 NATIONAL INSURANCE COMPANY LIMITED

33, PROMENADE ROAD

CANTONMENT

TRICHY

... Respondents in CMA(MD). 611/ 2013

1 JAYALAKSHMI W/o.Thangavelu

2 JAYALAKSHMI W/o.Ramarao

(2nd Respondent remained Ex-parte before the Lower Court)

3 JAMILA BIBI

4 NATIONAL INSURANCE COMPANY LIMITED

33, PROMENADE ROAD

CANTONMENT

TRICHY

... Respondents in CMA(MD). 612/ 2013

1 JAYALAKSHMI

2 MINOR.SARAVANAN

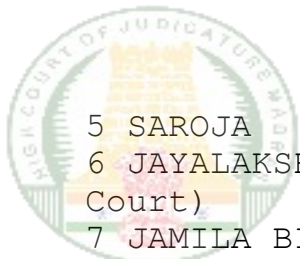
3 MINOR.KIRUTHIKA

(Minor R2 and R3 rep.by their mother and guardian-

1st Respondent-Jayalakshmi)

<https://hcservices.ecourts.gov.in/hcservices/>

4 LAKSHMANAN CHETTIAR



5 SAROJA
 6 JAYALAKSHMI (6th Respondent remained Ex-parte before the Lower Court)
 7 JAMILA BIBI
 8 NATIONAL INSURANCE COMPANY LIMITED
 33, PROMENADE ROAD
 CANTONMENT
 TRICHY ... Respondents in CMA(MD). 613/ 2013

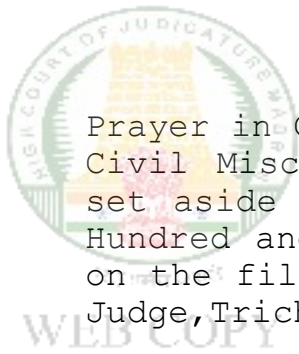
1 MINOR SYAM DINESH
 (Minor 1st respondent rep.by his father and guardian - Baskaran)
 2 JAYALAKSHMI
 (2nd Respondent remained Ex-parte before the Lower Court)
 3 JAMILA BIBI
 4 NATIONAL INSURANCE COMPANY LIMITED
 33, PROMENADE ROAD
 CANTONMENT
 TRICHY ... Respondents in CMA(MD). 614/ 2013

1 AMIRTHAM
 2 VIJAY
 3 RAMYA
 4 JAYALAKSHMI
 (R4 remained Ex-parte before the Lower Court)
 5 JAMILA BIBI
 6 NATIONAL INSURANCE COMPANY LIMITED
 33, PROMENADE ROAD
 CANTONMENT
 TRICHY ... Respondents in CMA(MD). 615/ 2013

1 MALA
 2 SENTHILKUMAR
 3 MINOR.DIVYA
 (Rep.by her Mother the 1st Respondent Mala)
 4 MANICKAM CHETTIAR
 5 CHINNAMMAL
 6 JAYALAKSHMI (R6 remained Ex-parte before the Lower Court)
 7 JAMILA BIBI
 8 NATIONAL INSURANCE COMPANY LIMITED
 33, PROMENADE ROAD
 CANTONMENT
 TRICHY ... Respondents in CMA(MD). 616/ 2013

Prayer in CMA(MD). 610/ 2013 :

Civil Miscellaneous Appeal filed U/s 173 of Motor Vehicle Act, to set aside the award of Rs.4,10,010 (Rupees Four Lakhs Ten Thousand Ten Only) passed in MCOP.no.689/2005 dated 29/11/2008 on the file of the motor accidents Claims Tribunal cum III Addl.Sub Judge, Tiruchirappalli.



Prayer in CMA(MD). 611/ 2013 :

Civil Miscellaneous Appeal filed U/s 173 of Motor Vehicle Act, to set aside the award of Rs57,890 (Rupees Fifty Seven thousand Eight Hundred and Ninety only) passed in MCOP.no.690/2005 dated 29/11/2008 on the file of the motor accidents Claims Tribunal cum III Addl.Sub Judge,Trichirappalli

Prayer in CMA(MD). 612/ 2013 :

Civil Miscellaneous Appeal filed U/s 173 of Motor Vehicle Act, to set aside the award of Rs1,00,775/- (Rupees One Lakhs Seven Hundred and Seventy Five only) passed in MCOP.no.692/2005 dated 29/11/2008 on the file of the motor accidents Claims Tribunal cum III Addl.Sub Judge,Trichirappalli

Prayer in CMA(MD). 613/ 2013 :

Civil Miscellaneous Appeal filed U/s 173 of Motor Vehicle Act, to set aside the award of Rs6,66,000/- (Rupees Six lakhs and Sixty Six Thousand only) passed in MCOP.no.879/2005 dated 29/11/2008 on the file of the motor accidents Claims Tribunal cum III Addl.Sub Judge, Trichirappalli

Prayer in CMA(MD). 614/ 2013 :

Civil Miscellaneous Appeal filed U/s 173 of Motor Vehicle Act, to set aside the award of Rs1,01,155/- (Rupees one lakh one thousand one Hundred and Fifty Five only) passed in MCOP.no.1150/2005 dated 29/11/2008 on the file of the motor accidents Claims Tribunal cum III Addl.Sub Judge,Trichirappalli

Prayer in CMA(MD). 615/ 2013 :

Civil Miscellaneous Appeal filed U/s 173 of Motor Vehicle Act, to set aside the award of Rs.1,10,000/- (Rupees one lakh Ten Thousand only) passed in MCOP.no.1172/2005 dated 29/11/2008 on the file of the motor accidents Claims Tribunal cum III Addl.Sub Judge, Trichirappalli

Prayer in CMA(MD). 616/ 2013 :

Civil Miscellaneous Appeal filed U/s 173 of Motor Vehicle Act, to set aside the award of Rs 12,58,530/- (Rupees Twelve lakhs Fifty Eight Thousand Five Hundred only) passed in MCOP.no.1/2006 dated 29/11/2008 on the file of the motor accidents Claims Tribunal cum III Addl.Sub Judge,Trichirappalli

CMA (MD) No. (MD) .NO.610/2013:

For Appellant : Mr. K. Bhaskaran
For R-1 to R3 : Mr. C. Deepak for
Mr.A.Saravanan
For R-6 : Mr. J.S. Murali



CMA (MD) No. (MD) .NO.611/2013:

For Appellant : Mr. K. Bhaskaran
For R-1 & R2 : Mr. C. Deepak for
Mr.A.Saravanan
For R-4 : Mr. J.S. Murali

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CMA (MD) No. (MD) .NO.612/2013:

For Appellant : Mr. K. Bhaskaran
For R-1 : Mr. C. Deepak for
Mr.A.Saravanan
For R-4 : Mr. J.S. Murali

CMA (MD) No. (MD) .NO.613/2013:

For Appellant : Mr. K. Bhaskaran
For R-1 to 5 : Mr. C. Deepak for
Mr.A.Saravanan
For R-8 : Mr. J.S. Murali

CMA (MD) No. (MD) .NO.614/2013:

For Appellant : Mr. K. Bhaskaran
For R-4 : Mr. J.S. Murali

CMA (MD) No. (MD) .NO.615/2013:

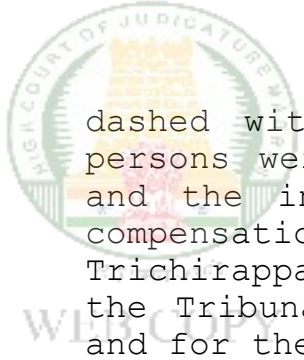
For Appellant : Mr. K. Bhaskaran
For R-1 -R3 : Mr. C. Deepak for
Mr.A.Saravanan
For R-6 : Mr. J.S. Murali

CMA (MD) No. (MD) .NO.616/2013:

For Appellant : Mr. K. Bhaskaran
For R-1 to R3 : Mr. C. Deepak for
Mr.A.Saravanan
For R-8 : Mr. J.S. Murali

COMMON JUDGMENT

It is a case of both injury and death caused on account of the accident took place on 16.09.2004 around 16.45 hours in Madurai to Trichy main road at the place near Pallapatty. The deceased and the injured persons were travelling in the Van bearing Registration No.TN 46 A 0815 belonged to one Jamila Bibi, wife of Nizarudhin, which was insured with the National Insurance Company Limited. The Driver of the Van drove the vehicle towards Trichy and at that time, the Lorry bearing Registration No.AP 16 V 3345 belonged to one Jeyalakshmi, wife of Ramarao, which was insured with the Oriental Insurance Company Limited, which came from opposite direction, was driven by its Driver rashly and negligently and



dashed with the Van, resulting death of some persons and other persons were grievously injured. The legal heirs of the deceased and the injured claimants filed respective applications, seeking compensation before the Motor Accident Claims Tribunal, Trichirappalli and the respective applications were considered by the Tribunal and compensation was also granted to the legal heirs and for the injured claimants.

2. Aggrieved by the award of the Tribunal, the Oriental Insurance Company Limited preferred the above Civil Miscellaneous Appeals on the ground that 50:50 negligence fixed by the Tribunal on both the vehicles, are erroneous and the National Insurance Company alone is to be held responsible for the payment of entire compensation and the Oriental Insurance Company is not liable to pay compensation, in view of the fact that the entire negligence was committed by the Driver of the Lorry, which was insured with the National Insurance Company Limited.

3. Heard the submissions made on either side and perused the materials available on record.

4. The findings of the Tribunal is that the condition of the road was bad and therefore, both the Drivers of the vehicles had committed negligence and accordingly, fixed 50:50 negligence. This apart, the Drivers were not examined as witnesses and in the absence of specific depositions or findings to that effect, this Court is not inclined to accept the contention that the National Insurance Company alone is responsible to pay compensation. Therefore, 50:50 liability fixed by the Tribunal is in order and no intervention is required.

5. Accordingly, these Civil Miscellaneous Appeals are dismissed, confirming the award passed by the Tribunal in all claim petitions.

6. The Oriental Insurance Company and the National Insurance Company are directed to deposit their respective shares with proportionate interests and costs, within a period of four weeks from the date of receipt of a copy of this order, if not already deposited and the respective claimants are permitted to withdraw the entire award amount with accrued interests and costs proportionately as per the award, through RTGS by filing necessary application before the Tribunal concerned.

No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS I)

/True Copy/

Sub Assistant Registrar



To

1. The III Additional Subordinate Judge,
The Motor Accidents Claims Tribunal, Trichirappalli.

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

+7cc to Mr.K.Baskaran, Advocate SR.NO.78149 to 78155

+7cc to Mr.J.S.Murali, Advocate Sr.No.78862 to 78868

PM

sm:MR:10.02.2017:6P/17C

C.M.A(MD)Nos.610 to 616 of 2013
01.12.2016