



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 02.11.2017
CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

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C.M.A.(MD)No.1153 of 2016
and
C.M.P.(MD) Nos.10353 and 10354 of 2016

The United India Insurance Co. Ltd.,
through its Divisional Manager,
Jeeva Jothi Building, Salai Road,
Dindigul Town,
Dindigul District.

... Appellant/4th Respondent

Vs.

1.Kannammal

2.Balaji

3.Minor Aparna

4.Minor Saranya

... Respondents/Petitioners

(RR3 and 4 are represented by
their mother and natural guardian
1st respondent)

5.Jennifer

... 5th Respondent/1st Respondent

6.Pavithra

... 6th Respondent/2nd Respondent

7.Minor Ruthra

... 7th Respondent/3rd Respondent

(R7 represented by her mother and
natural guardian 5th respondent)

Prayer: Appeal filed under Section 173 of M.V.Act, 1988, to set aside the judgment and decree dated 26.03.2014 made in M.C.O.P.No.503 of 2012 on the file of the Motor Accident Claims Tribunal, Additional District & Sessions Court, Dindigul.

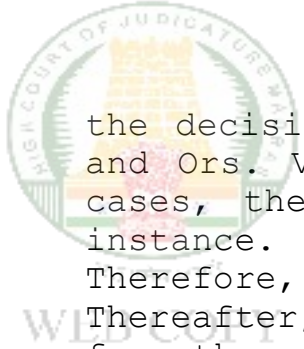
For Appellant : Mr.G.Prabhu Rajadurai

For Respondent : Mr.R.Pandimaharaja for R5

JUDGMENT

Heard the learned counsel on either side.

2.The insurance company has challenged the impugned award on the ground of liability. The deceased had travelled as an occupant in a private car. The vehicle had only Act policy coverage. Therefore, the contention of the appellant is that the insurer is not liable to indemnify the owner against any loss occurring in view of the death or injury to the occupant. This is ~~several~~ a premium was paid for the occupant of the car. This issue is no longer res-integra. The Hon'ble Supreme Court in



the decision reported in 2017(1) TN MAC 289 (SC) - Manura Khatun and Ors. Vs. Rajesh Kr. Singh and Ors. has held that even in such cases, the insurer is liable to satisfy the award in the first instance. Pay and recover principle is applicable in such cases. Therefore, the appellant is directed to satisfy the award. Thereafter, the appellant is at liberty to recover the paid amount from the vehicle owner by filing execution proceedings in the very same proceedings. The Tribunal had awarded 9% interest. The same is reduced to 7.5% per annum. Therefore, the award dated 26.03.2014 made in M.C.O.P.No.503 of 2012, on the file of the Motor Accident Claims Tribunal, Additional District & Sessions Court, Dindigul is modified.

3. The appellant insurance company is directed to deposit the entire compensation amount with interest at the rate of 7.5% per annum and costs, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. Thereafter, the appellant is entitled to recover the paid amount from the vehicle owner by filing execution petition in the very same proceedings. On such deposit, the claimants are entitled to withdraw their share as apportioned by the Tribunal, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal.

4. This civil miscellaneous appeal stands partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

The Additional District and Sessions Judge,
Motor Accident Claims Tribunal, Dindigul.

+1cc to M/S.G.Prabhu Rajadurai, Advocate SR.No. 85326
+1cc to M/S.G.Gomathi Sankar, Advocate SR.No. 85258

C.M.A. (MD) No.1153 of 2016

and

C.M.P. (MD) Nos.10353 and 10354 of 2016

02.11.2017

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