



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:18.12.2017

CORAM

WEB COPY

THE HON'BLE MRS.JUSTICE G.R.SWAMINATHAN

CMA(MD).Nos.1334 to 1342 of 2015
and
M.P(MD)Nos.3 of 2015 in all C.M.As

M/S.NATIONAL INSURANCE COMPANY LTD.,
THROUGH ITS BRANCH MANAGER,
MIG 315, 80 FEET ROAD, ANNA NAGAR,
MADURAI.

...APPELLANT IN ALL CMAS

- Vs. -

1 S.SUBRAMANIAN, S/O.SANGAR, 2/429,
NEW COLONY, UTCHAPARAMBUMEDU, THIRUPPALAI,
IYER BUNGALOW, MADURAI 625 014.

2 K.SUDALAIMUTHU, S/O.KUMARASAMY,
NO.1, SEENIAPPAN THIRUTHU, WEST ST.,
THATCHANALUR, TIRUNELVELI 627 358.

3 M/S.UNITED INDIA INSURANCE CO. LTD.,
REP. THROUGH ITS DIVISIONAL MANAGER,
7.A, WEST VELI ST., MADURAI.

4 K.SUDHA, W/O.SIKKANDAR,
NO.1, MALLIGAI MALAR ST., BHARATHI NAGAR,
KRISHNAPURAM COLONY, MADURAI.

... Respondent(s) in CMA(MD). 1334/ 2015

1 G.MUTHULAKSHMI W/O.LATE. (DECEASED)
P.GURUSEV,
PERUMALPATY, BOOTHAGUDI POST,
ALANGANALLUR VILLAGE, MADURAI DT.

2 MINOR G. TARVIN S/O.LATE. (DECEASED)
P. GURUSEV,
PERUMALPATY, BOOTHAGUDI POST,
ALANGANALLUR VILLAGE, MADURAI DT.

3 MINOR G. ELAKKIYA D/O.LATE (DECEASED)
P.GURUSEV, PERUMALPATY, BOOTHAGUDI POST,
ALANGANALLUR VILLAGE, MADURAI DT.



4 MINOR G. PERNATSA, S/O.LATE.(DECEASED)
P. GURUSEV, PERUMALPATTY, BOOTHAGUDI POST,
ALANGANALLUR VILLAGE, MADURAI DT.
(MINORS REP THROUGH THEIR MOTHER 1ST RESPONDENT)

5 P.KARUPPAYAEE AMMAL MOTHER OF LATE (DECEASED)
P. GURUSEV, W/O. PITICHAI, PERUMALPATTY,
BOOTHAGUDI POST, ALANGANALLUR VILLAGE,
MADURAI DT.

6 K.SUDALAIMUTHU, S/O.KUMARASAMY,
NO.1, SEENIAPPAN THIRUTHU,
WEST ST, THATCHANALUR,
TIRUNELVELI -358.

7 M/S. UNITED INDIA INSURANCE COMPANY LTD.,
THROUGH ITS DIVISIONAL MANAGER,
7.A, WEST VELI ST,
MADURAI.

8 K.SUDHA W/O. SIKKENDAR,
NO.1, VALLIGAIMALAR ST, BHARATHI NAGAR,
KRISHNAPURAM COLONY,
MADURAI DT.

... Respondent(s) in CMA(MD). 1335/ 2015

1 S.MANOCHARAN S/O.SUBRAMANIYAN,
PERUMALPATTY BOOTHAGUDI POST,
MADURAI-017.

2 K.SUDALAIMUTHU S/O. KUMARASAMY,
NO.1, SEENIAPPAN THIRUTHU WEST ST,
THATCHANALUR, TIRUNELVELI -358.

3 M/S. UNITED INDIA INSURANCE COMPANY LTD.,
REP THROUGH ITS DIVISIONAL MANAGER,
7.A, WEST VELI ST, MADURAI.

4 K.SUDHA, W/O. SIKKANDAR,
NO.1, MALLIGAI MALAR ST,
BHARATHI NAGAR, KRISHNAPURAM COLONY, MADURAI.

... Respondent(s) in CMA(MD). 1336/ 2015

1 RAJALAKSHMI, W/O.LATE.(DECEASED)
SELVARAJAN, PERUMALPATTI VILLAGE,
BOOTHAGUDI POST, ALANGANALLUR VIA,
MADURAI DISTRICT.

2 MINOR.VIMALRAJ, S/O.LATE.(DECEASED)
U.SELVARAJAN, PERUMALPATTI VILLAGE,
BOOTHAGUDI POST, ALANGANALLUR VIA,
MADURAI DISTRICT.



3 MINOR.TIVYARANI, D/O.LATE.(DECEASED)
U.SELVARAJAN, PERUMALPATTI VILL,
BOTHAGUDI PO, ALANGANALLUR VIA,
MADURAI DT.
(R2 & 3 ARE REP THRO THEIR M & GUARDIAN THE R1)

4 SILAMBAYEE,
W/O.LATE ULAGESAN & M/O.LATE.(DECEASED)
U.SELVARAJAN, PERUMALPATTI VILLAGE,
BOTHAGUDI POST, ALANGANALLUR VIA,
MADURAI DISTRICT.

5 MEENA
D/O.LATE.ULAGESAN & S/O.LATE.(DECEASED)
U.SELVARAJAN, PERUMALPATTI VILLAGE,
BOTHAGUDI POST, ALANGANALLUR VIA,
MADURAI DISTRICT.

6 K.SUDALAIMUTHU, S/O.KUMARASAMY,
NO.1, SEENIAPPAN THIRUTHU WEST ST.,
THATCHANALLUR, TIRUNELVELI 627 358.

7 M/S.UNITED INDIA INSURANCE CO. LTD.,
THROUGH ITS DIVISIONAL MANAGER, 7.A,
WEST VELI ST., MADURAI.

8 K.SUDHA, W/O.SIKKANDAR,
NO.1, MALLIGAI MALAR ST., BHARATHY NAGAR,
KRISHNAPURAM COLONY, MADURAI.

... Respondent(s) in CMA(MD). 1337/ 2015

1 REVATHI, W/O.LATE.(DECEASED)
JEYACHANDRAN, PERUMALPATTI, BOTHAGUDI POST,
ALANGANALLUR VIA, MADURAI DISTRICT.

2 MINOR.J.KAYATHRI D/O.LATE.(DECEASED)
JEYACHANDRAN, PERUMALPATTI, BOTHAGUDI POST,
ALANGANALLUR VIA, MADURAI DT.
(REP THRO HER M & GUARDIAN THE R1)

3 K.MARUTHAIAH,
S/O.KARUPPAIAH, F/O.LATE.(DECEASED)
JEYACHANDRAN, PERUMALPATTI, BOTHAGUDI POST, ALANGANALLUR VIA,
MADURAI DISTRICT.

4 M.MARUTHAYEE, W/O.MARUTHAIAH,
M/O.LATE.(DECEASED) JEYACHANDRAN, PERUMALPATTI,
BOTHAGUDI POST, ALANGANALLUR VIA, MADURAI DISTRICT.



5 M.KARTHICK, S/O.MARUTHAIAH,
B/O.LATE.(DECEASED) JEYACHANDRAN,
PERUMALPATTI, BOTHAGUDI POST,
ALANGANALLUR VIA, MADURAI DISTRICT.

6 K.SUDALAIMUTHU, S/O.KUMARASAMY,
NO.1, SEENIAPPAN THIRUTHU WEST ST.,
THATCHANALLUR, TIRUNELVELI 627 358.

7 M/S.UNITED INDIA INSURANCE CO. LTD.,
THROUGH ITS DIVISIONAL MANAGER, 7.A,
WEST VELI ST., MADURAI.

8 K.SUDHA, W/O.SIKKANDAR,
NO.1, MALLIGAI MALAR ST.,
BHARATHY NAGAR, KRISHNAPURAM COLONY,
MADURAI.

... Respondent(s) in CMA(MD). 1338/ 2015

1 K.MURUGESHWARI, D/O.V.K.KARUPPAIAH,
SISTER OF LATE.(DECD) SENTHILKUMARAN,
PERUMALPATTI, BOTHAGUDI POST,
ALANGANALLUR VIA, MADURAI DISTRICT.

2 K.SARAVANAKUMAR, S/O.V.K.KARUPPAIAH,
BROTHER OF LATE.(DECD) SENTHILKUMARAN,
PERUMALPATTI, BOTHAGUDI POST,
ALANGANALLUR VIA, MADURAI DISTRICT.

3 K.SUDALAIMUTHU, S/O.KUMARASAMY, NO.1,
SEENIAPPAN THIRUTHU WEST ST.,
THATCHANALLUR, TIRUNELVELI 627 358.

4 M/S.UNITED INDIA INSURANCE CO. LTD.,
THROUGH ITS DIVISIONAL MANAGER,
7.A, WEST VELI ST., MADURAI.

5 K.SUDHA, W/O.SIKKANDAR, NO.1,
MALLIGAI MALAR ST., BHARATHY NAGAR,
KRISHNAPURAM COLONY, MADURAI.

... Respondent(s) in CMA(MD). 1339/ 2015

1 POOVATHI W/O. LATE. (DECEASED) RAMAMOORTHY,
VADUGAPATTI VILLAGE, ALANGANALLUR VIA,
MADURAI DIST.

2 MINOR ANYSOOYA,
D/O. LATE (DECEASED) RAMAMOORTHY,
VADUGAPATTI VILLAGE, ALANGANALLUR VIA, MADURAI.



3 MINOR NAGAJOTH D/O.LATE. (DECEASED) RAMAMOORTHY,
SIS OF LATE. (DECEASED) SENTHILKUMARAN,
VADUGAPATTI VILLAGE, ALANGANALLUR VIA,
MADURAI DIST.

4 MINOR PUVANESWARI D/O.LATE. (DECEASED) RAMAMOORTHY,
VADUGAPATTI VILLAGE, ALANGANALLUR VIA,
MADURAI DIST.

(MINOR REP 2 TO 4 ARE REP BY 1st RESPONDENT MOTHER
MOTHER AND GUARDIAN THE 1ST RES)

5 K. SUDALAIMUTHU S/O. KUMARASAMY,
NO.1, SEENIAPPAN THIRUTHU, WEST STREET,
THATCHAYANALUR, TIRUNELVELI-627 358.

6 UNITED INDIA INSURANCE COMPANY LTD.,
THROUGH ITS DIVISIONAL MANAGER,
DIVISIONAL OFFICE, 7.A, WEST VELI STREET,
MADURAI.

7 K. SUDHA W/O. SIKKANDAR,
NO.1, MALLIGAI MALAR ST., BHARATHI NAGAR,
KRISHAPURAM COLONY, MADURAI.

... Respondent(s) in CMA(MD). 1340/ 2015

1 GOMATHI BALA, W/O. LATE.(DECEASED) PERUMAL,
VADUGAPATTI VILLAGE, ALANGANALLUR VIA,
MADURAI DIST,

2 MINOR RANJITH , S/O. LATE.(DECEASED) PERUMAL,
VADUGAPATTI VILLAGE, ALANGANALLUR VIA, MADURAI DIST,
(2 & 3 REP THRO THEIR MOTHER AND GUARDIAN THE 1ST RES)

3 MINOR RANJANI D/O. LATE.(DECEASED) PERUMAL,
VADUGAPATTI VILLAGE, ALANGANALLUR VIA,
MADURAI DIST,

4 K. SUDALAIMUTHU S/O. KUMARASAMY, NO.1,
SEENIAPPAN THIRUTHU, WEST STREET,
THATCHAYANALUR, TIRUNELVELI-627 358.

5 UNITED INDIA INSURANCE COMPANY LTD.,
THROUGH ITS DIVISIONAL MANAGER,
DIVISIONAL OFFICE, 7.A, WEST VELI STREET,
MADURAI.

6 K. SUDHA W/O. SIKKANDAR, NO.1,
MALLIGAI MALAR ST., BHARATHI NAGAR,
KRISHAPURAM COLONY, MADURAI.

... Respondent(s) in CMA(MD). 1341/ 2015



1 VASANTHI W/O. LATE. (DECEASED) KAMARAJ,
BOOTHAGUDI VILLAGE, ALANGANALLUR VIA,
MADURAI DIST.

2 MINOR KEETHANA
3 MINOR KEERTHIKA
4 MINOR POTHUMPONNU

5 MINOR PREMIA

6 MINOR THALAPATHY VALAVAN
(MINORS 2 TO 6 REP THROUGH THEIR MOTHER
AND GUARDIAN THE 1ST RESPONDENT)

7 K.SUDALAIMUTHU

8 UNITED INDIA INSURANCE COMPANY LTD.,
THROUGH ITS DIVISIONAL MANAGER,
DIVISIONAL OFFICER, 7.A, WEST VELI STREET,
MADURAI.

9 K. SUDHA

... Respondent(s) in CMA(MD). 1342/ 2015

Prayer in CMA(MD). 1334/ 2015 :

To set aside the or modify the order of the Learned Tribunal in MCOP NO. 58 of 2008 dated 25/08/2012 on the file of the Motor Accidents Claims Tribunal, IV Additional District Court, Madurai and allow the appeal with costs

Prayer in CMA(MD). 1335/ 2015 :

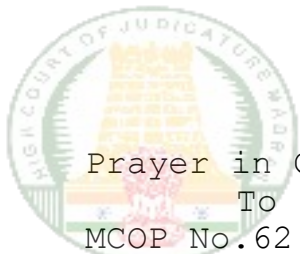
To set aside the or modify the order of the Learned Tribunal in MCOP NO. 60 of 2008 dated 25/08/2012 on the file of the Motor Accidents Claims Tribunal, IV Additional District Court, Madurai and allow the appeal with costs

Prayer in CMA(MD). 1336/ 2015 :

To set aside the or modify the order of the Learned Tribunal in MCOP NO. 59 of 2008 dated 25/08/2012 on the file of the Motor Accidents Claims Tribunal, IV Additional District Court, Madurai and allow the appeal with costs

Prayer in CMA(MD). 1337/ 2015 :

To set aside or modify the order of the Learned Tribunal in MCOP No.61 of 2008 dated 25.08.2012 on the file of the MACT, IV Additional District Court, Madurai and allow the appeal with costs



Prayer in CMA(MD). 1338/ 2015 :

To set aside or modify the order of the Learned Tribunal in MCOP No.62 of 2008 dated 25.08.2012 on the file of the MACT, IV Additional District Court, Madurai and allow the appeal with costs

Prayer in CMA(MD). 1339/ 2015 :

To set aside or modify the order of the Learned Tribunal in MCOP No.63 of 2008 dated 25.08.2012 on the file of the MACT, IV Additional District Court, Madurai and allow the appeal with costs

Prayer in CMA(MD). 1340/ 2015 :

To set aside or modify the order of the Learned Tribunal in M.C.O.P.No.64 of 2008 dated 25.08.2012 on the file of the Motor Accidents Claims Tribunal, IV Additional District Court, Madurai and allow the appeal with costs

Prayer in CMA(MD). 1341/ 2015 :

To set aside or modify the order of the Learned Tribunal in M.C.O.P.No.65 of 2008 dated 25.08.2012 on the file of the Motor Accidents Claims Tribunal, IV Additional District Court, Madurai and allow the appeal with costs

Prayer in CMA(MD). 1342/ 2015 :

To set aside or modify the order of the Learned Tribunal in M.C.O.P.No.66 of 2008 dated 25.08.2012 on the file of the Motor Accidents Claims Tribunal, IV Additional District Court, Madurai and allow the appeal with costs

For Appellant

in all CMA's

: Mr.J.S.Murali

For Respondents in

CMA(MD)No.1334 of 2015 : Mr.T.A.Ebenezer for R1

Mr.K.A.Thirumalaiappan for R3

R2- No appearance

R4- Left

For Respondents in

CMA(MD)No.1335 of 2015 : Mr.T.A.Ebenezer for R1 to R4

Mr.K.A.Thirumalaiappan for R7

R5 & R6 - No appearance

R8 - Left

For Respondents in

CMA(MD)No.1336 of 2015 : Mr.T.A.Ebenezer for R1

Mr.K.A.Thirumalaiappan for R3

R2 - No appearance

R4 - Left



For Respondents in

CMA(MD)No.1337 of 2015 : Mr.T.A.Ebenezer for R1 to R4
Mr.K.A.Thirumalaiappan for R7
R5 & R6 - No appearance
R8 - Left

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For Respondents in

CMA(MD)No.1338 of 2015 : Mr.T.A.Ebenezer for R1 to R4
Mr.K.A.Thirumalaiappan for R7
R5 & R6 - No appearance
R8 - Left

For Respondents in

CMA(MD)No.1339 of 2015 : Mr.T.A.Ebenezer for R1 & R2
Mr.K.A.Thirumalaiappan for R4
R3 - No appearance, R5 - Left

For Respondents in

CMA(MD)No.1340 of 2015 : Mr.T.A.Ebenezer for R1 to R4
Mr.K.A.Thirumalaiappan for R6
R5 - No appearance, R7 - Left

For Respondents in

CMA(MD)No.1341 of 2015 : Mr.T.A.Ebenezer for R1 to R3
Mr.K.A.Thirumalaiappan for R5
R4 - No appearance, R6 - Left

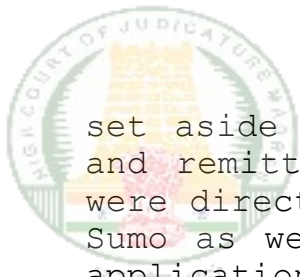
For Respondents in

CMA(MD)No.1342 of 2015 : Mr.T.A.Ebenezer for R1 to R6
Mr.K.A.Thirumalaiappan for R8
R7 - No appearance, R9 - Left

COMMON JUDGMENT

The appeals are nine in number. This is a case of an accident involving a TATA Sumo and a lorry. The accident occurred on 18.06.2007, at past mid-night on Sathur-Virudunagar Main Road. Two persons suffered grievous injuries and seven died. The claimants filed M.C.O.P.Nos.58 to 66 of 2008 on the file of the Motor Accidents Claims Tribunal [IV Additional District Judge], Madurai.

2.The said TATA Sumo was insured with the National Insurance Company Limited and the said lorry was insured with the United India Insurance Company Limited. The Tribunal passed an award dated 07.08.2009, fastening 50% negligence on the driver of the said lorry and 50% on the driver of the said TATA Sumo. Accordingly, the liability was equally apportioned between the respective insurers. But, in the first round, the claimants had arrayed the United India Insurance Company Limited alone as a party. The National Insurance Company Limited was not arrayed as a party. This court, therefore,



set aside the common award passed in M.C.O.P.Nos.58 to 66 of 2008 and remitted the same to the file of the Tribunal. The claimants were directed to file applications for impleading the owner of TATA Sumo as well as its insurer. Accordingly, the claimants took out applications impleading the owner of the Tata Sumo as well as the appellant National Insurance Company Limited. The matter was taken up afresh and the Tribunal passed a fresh common award dated 25.08.2012 and the same is under challenge in this appeal.

3. Heard the learned counsel on either side.

4.It is beyond dispute that the accident took place on a highway involving collision of two vehicle. Therefore as per the decision of the Hon'ble Supreme Court of India reported in 2006 (1) TNMAC 99 (SC) (Bijoy Kumar Dugar v. Bidyadhar Dutta & ors.,) negligence will have to be equally apportioned. Therefore, the respective insurers will have to correspondingly bear the liability in equal shares. The quantum of compensation also cannot be said to be excessive. Considering the nature of the claims, this Court is of the view that there is no merit in these appeals.

5.The appellant Insurance company and the United India Insurance Company Ltd., are directed to deposit the entire compensation amount as per the common award dated 25.08.2012 passed by the Tribunal, 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. On such deposit being made, the claimants in all the Civil Miscellaneous Appeals are permitted to withdraw their respective shares as apportioned by the Tribunal, less the amount already withdrawn by them, if any by filing proper petition before the Tribunal. The share of the minor claimants, if any, shall be deposited in any one of the Nationalised Bank in an interest bearing account and the natural guardian of the minor claimants is permitted to withdraw the accrued interest once in three months directly from the bank, till they attain majority.

6.These Civil Miscellaneous Appeals stand dismissed. The award dated 25.08.2012 in M.C.O.P.No.58 to 66 of 2008 on the file of the Motor Accidents Claims Tribunal/ IV Additional District Court, Madurai is confirmed. No costs. Consequently, all connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CO)

// True Copy //



To

The IV Additional District Judge,
The Motor Accident Claims Tribunal, Tirunelveli.

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Copy to
The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+9 CC To MR.J.S.MURALI, Advocate SR. NO.93467 TO 93475
+9 CC To MR.T.A.EBENUZER, Advocate SR. NO.93898 TO 93936
+1 CC To MR.A.THIRUMALAIAPPAN, Advocate SR. NO. 93634

CMA(MD).Nos.1334 to 1342 of 2015
and
M.P(MD)Nos.3 of 2015 in all C.M.As
18.12.2017

KMI

TR/SKN/SAR- (26.09.2018)10P 22C