

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 07.06.2017

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN**

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**C.M.A. (MD) Nos.442 to 445 of 2017****and****C.M.P. (MD) Nos.4743 to 4746 of 2017****C.M.A. (MD) No.442 of 2017:**

The Oriental Insurance Company Limited,  
2<sup>nd</sup> Floor, Ganesh Complex,  
6A, Lawsons Road, Contonment,  
Trichy. ... Appellant/2<sup>nd</sup> Respondent

Vs.

1.P.Subramanian  
2.P.Marimuthu  
3.P.Ilanchiyam ... Respondents 1 to 3/Petitioners 1 to 3

Saroja (died)

Prayer: Appeal filed under Section 173 of the Motor Vehicle Act 1988 against the judgment and decree passed in M.C.O.P.No.1736 of 2005, dated 25.09.2012 on the file of the Motor Accident Claims Tribunal - III Additional Subordinate Judge, Tiruchirappalli.

For Appellant : Mr.C.Ramachandran

For Respondent : Mr.K.P.Narayanakumar  
for R.1 to R.3

\* \* \* \* \*

**C.M.A. (MD) No.443 of 2017**

The Oriental Insurance Company Limited,  
2<sup>nd</sup> Floor, Ganesh Complex,  
6A, Lawsons Road, Contonment,  
Trichy. ... Appellant/2<sup>nd</sup> Respondent

Vs.

1.P.Subramanian ... Respondent/Petitioner

Saroja (died)

Prayer: Appeal filed under Section 173 of the Motor Vehicle Act 1988 against the judgment and decree passed in M.C.O.P.No.1738 of 2005, dated 25.09.2012 on the file of the Motor Accident Claims Tribunal, III Additional Subordinate Judge, Tiruchirappalli.



For Appellant : Mr.C.Ramachandran

For Respondent : Mr.K.P.Narayanakumar

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**C.M.A. (MD) No.444 of 2017**

The Oriental Insurance Company Limited,  
2<sup>nd</sup> Floor, Ganesh Complex,  
6A, Lawsons Road, Contonment,  
Trichy. ... Appellant/2<sup>nd</sup> Respondent

Vs.

1.P.Subramanian  
2.S.Sharma Boopathi  
3.S.Poonkodi ... Respondents 1 to 3/Petitioners 1 to 3

Saroja (died)

Prayer: Appeal filed under Section 173 of the Motor Vehicle Act 1988 against the judgment and decree passed in M.C.O.P.No.1740 of 2005, dated 25.09.2012 on the file of the Motor Accident Claims Tribunal, III Additional Subordinate Judge, Tiruchirappalli.

For Appellant : Mr.C.Ramachandran

For Respondents : Mr.K.P.Narayanakumar  
for R.1 to R.3

\* \* \* \* \*

**C.M.A. (MD) No.445 of 2017**

The Oriental Insurance Company Limited,  
2<sup>nd</sup> Floor, Ganesh Complex,  
6A, Lawsons Road, Contonment,  
Trichy. ... Appellant/2<sup>nd</sup> Respondent

Vs.

1.S.Sharma Boopathi ... Respondent/Petitioner

Saroja (died)

Prayer: Appeal filed under Section 173 of the Motor Vehicle Act 1988 against the judgment and decree passed in M.C.O.P.No.1741 of 2005, dated 25.09.2012 on the file of the Motor Accident Claims Tribunal, III Additional Subordinate Judge, Tiruchirappalli.



For Appellant : Mr.C.Ramachandran

For Respondent : Mr.K.P.Narayanakumar

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**COMMON JUDGMENT**

These appeals have been filed by the appellant/Insurance Company against the common award made by the Tribunal in M.C.O.P.Nos.1736, 1738, 1740 and 1741 of 2005 on the file of the Motor Accident Claims Tribunal - III Additional Subordinate Judge, Tiruchirappalli.

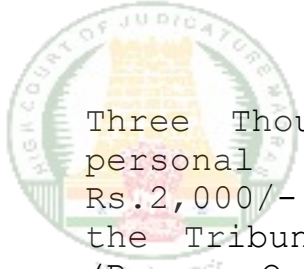
2. Of the four cases, two cases in M.C.O.P.No.1736 and 1740 of 2005 are fatal cases and the other two cases in M.C.O.P.Nos.1738 and 1741 of 2005 are cases of injury.

3. In M.C.O.P.No.1736 of 2005, the Tribunal has awarded a sum of Rs.1,45,000/- (Rupees One Lakh and Forty Five Thousand only) for the death of a 70 years old lady in the accident. In M.C.O.P.No.1740 of 2005, the Tribunal has awarded a sum of Rs.6,01,000/- (Rupees Six Lakhs and One Thousand only) for the death of one Manimegalai, aged about 18 years, whose father is aged between 40 to 45 years at the time of the accident. In M.C.O.P.No.1738 of 2005, the Tribunal has awarded a sum of Rs.15,000/- (Rupees Fifteen Thousand only) for the injuries to the claimant and in M.C.O.P.No.1741 of 2005, a sum of Rs.15,000/- (Rupees Fifteen Thousand only) was awarded for the injuries suffered by the claimant.

4. The only ground on which the appellant/Insurance Company seeks to attack the award is that the vehicle involved in the accident is a Maxi Cab which had a Permit for carrying only 9 passengers + driver. Whereas as per the F.I.R., nearly 14 persons travelled in the vehicle and therefore, there is a violation of policy condition. But, the said claim has not been established by examining any person and no evidence has been let in by the appellant/Insurance Company.

5. The learned Counsel for the appellant/Insurance Company would fairly submit that two appeals arising out of the same accident in C.M.A(MD)Nos.1053 and 1215 of 2012 have been dismissed by this Court on 09.02.2017 and therefore, the question of violation of policy conditions cannot be gone into once again in these appeals.

<https://hcservices.courts.gov.in/hcservices/> As regards the quantum also, I do not find that the awards are excessive. The Tribunal has taken into account the income of the deceased in M.C.O.P.No.1736 of 2005 as Rs.3,000/- (Rupees



Three Thousand only) and after deducting 1/3<sup>rd</sup> amount towards personal expenses, arrived at the monthly contribution as Rs.2,000/- (Rupees Two Thousand only) and adopting multiplier '5', the Tribunal has assessed the loss of income at Rs.1,20,000/- (Rupees One Lakh and Twenty Thousand only). The awards for other heads, namely, transportation charges, funeral expenses and loss of love and affection are also very reasonable.

7. In M.C.O.P.No.1740 of 2005, the deceased was aged 18 years and the Tribunal has taken her income at Rs.4,000/- (Rupees Four Thousand only) per month and after deducting 1/4<sup>th</sup> amount towards personal expenses, has arrived at the loss of monthly contribution at Rs.3,000/- (Rupees Three Thousand only) and adopting multiplier '16', has arrived at the total loss of income at Rs.5,76,000/- (Rupees Five Lakhs and Seventy Six Thousand only). The Tribunal has awarded a sum of Rs.5,000/- (Rupees Five Thousand only) towards funeral expenses; a sum of Rs.5,000/- (Rupees Five Thousand only) towards transportation charges and a sum of Rs.15,000/- (Rupees Fifteen Thousand only) towards loss of love and affection.

8. The learned Counsel for the appellant/Insurance Company is unable to attack the award on the quantum despite his best efforts.

9. As far as two injury cases are concerned, the Tribunal, based on the wound certificate, a sum of Rs.15,000/- (Rupees Fifteen Thousand only) is awarded to both the claimants. I do not see any illegality or irregularity in the award passed by the Tribunal.

10. In the result, all the Civil Miscellaneous Appeals are dismissed. The appellant/Insurance Company is given four months time from the date of receipt of a copy of this order to deposit the award amounts before the Tribunal. No costs. Consequently, the connected miscellaneous petitions are dismissed.

Sd/-  
Assistant Registrar(Co)

/True Copy/

Sub Assistant Registrar

To

1. The Motor Accident Claims Tribunal,  
III Additional Subordinate Court,

<https://hcservices.hcsonline.apnieli.>



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

+4ccs to MR.C.Ramachandras, Advocate in SR.No.59014 to 59017  
+1cc to Mr.K.P.Narayankumar, Advocate in SR.No.59188

rsb

AE/SKN RSK/SAR1/13.07.2017/5P/8C

**C.M.A. (MD) Nos.442 to 445 of 2017  
and  
C.M.P. (MD) Nos.4743 to 4746 of 2017  
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