



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) No. 551 of 2017

1.T.Umayal
2.Minor E.Muthukaruppan
3.Minor E.Archana
(Petitioners No.2 and 3 represented
by through their Guardian and
grandmother petitioner No.1
above named)

... Appellants / Petitioners

Vs.

The Divisional Manager,
Oriental Insurance Company Limited,
Old Door No.145, New Door No.211,
Sekkalai Road, 1st Floor,
Sathyamoorthy Illam, Karaikudi,
Sivagangai District.

...Respondent/Respondent

Prayer: Appeals filed under Section 173 of Motor Vehicles Act, 1988, to set aside the fair and executable order in M.C.O.P.No.33, of 2013, dated 12.01.2017 by the Motor Accident Claims Tribunal, on the file of the Subordinate Court, Devakottai.

For Appellants : Ms.S.Akila
For Respondent : Mr.Baskaran

JUDGMENT

Heard the learned counsel on either side.

2.Aggrieved by the dismissal of the claim petition, this appeal has been filed by the claimants. One Ilangovan, son of the first appellant and the father of the second and third appellants, was riding his two wheeler, it is alleged that on account of the road condition he lost his balance and fell down and suffered head injuries and died on 24.10.2012. The First Information Report was registered. The Insurance Policy had the personal accident coverage for a sum of Rs.1,00,000/-. The Tribunal however took the view that the issue regarding personal accident coverage cannot be gone into by it. In that view of the matter, the claim



petition was dismissed.

3. The learned standing counsel appearing for the respondent brought to my notice, the decision of this Court reported in **2013 (1) TN MAC 325 - Bajaj Allianz General Insurance Company Limited Vs. C. Ramesh**. This Court had taken the view that the benefit under personal accident insurance coverage can also be extended while deciding claims under the Motor Vehicles Act. Respectfully following the said decision, this appeal is allowed. The respondent Insurance Company is directed to pay a sum of Rs.1,00,000/- with accrued interest towards personal accident coverage.

4. The learned standing counsel appearing for the respondent contended that the question of award of interest will not arise. He further contended that the claimants ought to have approached the Insurance Company and if they had done so, the insurance company would have called and settled the matter. In stead, they chose to approach the Tribunal, which has no jurisdiction to go into the issue.

5. I am of the view that the respondent Insurance Company ought to have paid the said sum of Rs.1,00,000/- under the said coverage amount when they received information about the accident. The sum of Rs.1,00,000/- ought to have disbursed to the claimant, soon after the date of occurrence of the accident, which took place on 23.10.2012. There is a delay of five years. The respondent has been retaining the said sum of Rs.1,00,000/-.

6. The respondent Insurance company has to pay a sum of Rs.1,00,000/- with accrued interest 7.5 % p.a. This appeal is accordingly allowed. No costs. The respondent Insurance Company is directed to deposit the entire award amount along with accrued interest and costs within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the first appellant is entitled to a sum of Rs.60,000/- along with proportionate interest and costs and she is permitted to withdraw the same. The appellants 2 and 3, who are the minors are entitled to a sum of Rs.20,000/- each with proportionate interest and costs. The minors' share amount shall be deposited in any one of the Nationalised Bank in a renewable scheme till they attain majority and the interest accrued on the same shall be withdrawn by the guardian of the minors once three months directly from the Bank for the welfare of the minors.

Sd/-

Assistant Registrar



gsp/ia

To

WEB COPY
The Subordinate Judge,
Motor Accident Claims Tribunal,
(Subordinate Court), Devakottai.

COPY TO:-

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

+1 CC TO Mr.A.HAJA MOHIDEEN, Advocate, Sr.No.88246

+1 cc TO Mr.K.BHASKARAN, Advocate, Sr.No.88423

JAM/20.12.17/MR/ SAR 1 / 3p-5c

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