



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) Nos. 647 and 648 of 2015

and

CROS.OBJ(MD) No.10 of 2017

and

M.P. (MD) Nos. 3 and 3 of 2015

C.M.A. (MD) No. 647 of 2015:

The Divisional Manager,
National Insurance Company Limited,
63, Rasi Plaza,
West Bharathi Krishna Road,
Karur.

... Appellant

Vs.

Mari (Died)
1.K.Ponnan
2.Kannimari
3.Pothum Ponnu
4.Lakshmi
5.Paranthaman

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, Sub Court, Aruppukkottai in M.C.O.P.No.70 of 2009 dated 12.02.2013.

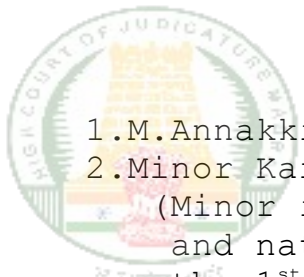
For Appellant : Mr.D.Sivaraman

For Respondents 1 to 4 : Mr.V.Thirumal

C.M.A. (MD) No. 648 of 2015:

The Divisional Manager,
National Insurance Company Limited,
63, Rasi Plaza,
West Bharathi Krishna Road,
Karur.

... Appellant



1.M.Annakkili @ Annalakshmi

2.Minor Karkuvelraj

(Minor is represented through his mother
and natural guardian M.Annakkili & Annalakshmi,
the 1st respondent herein)

3.Mookkammal

4.Pandiammal

5.Paranthaman

... Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, Sub Court, Aruppukkottai in M.C.O.P.No.71 of 2009 dated 12.02.2013.

For Appellant : Mr.D.Sivaraman

For R-1 to R-4 : Mr.V.Thirumal

CROS.OBJ.(MD)No.10 of 2017

in

C.M.A.(MD) .No.648 of 2015

1. M.Annakkili @ Annalakshmi

2. Minor.Karkuvelraj

(Minor is represented through
his mother and natural guradian
M.Annakkili @ Annalakshmi,
the 1st respondent herein)

3.Mookkammal

4.Pandiammal

... Cross Appellants/Respondents 1 to 4

Vs.

1.The Divisional Manager,
National Insurance Company Limited,
63, Rasi Plaza,
West Bharathi Krishna Road,
Karur.

...1st Respondent/Appellant

2.Paranthaman

...2nd Respondent/5th Respondent

Prayer: This Cross Objection is filed under Order 41 Rule 22 of Civil Procedure Code, against the judgment and decree in M.C.O.P.No.71 of 2009 on the file of the Motor Accident Claims Tribunal, Sub Court, Aruppukkottai dated 12.02.2013 and the appeal notice was served on the cross appellants on 23.01.2015.

**COMMON JUDGMENT**

These appeals have been filed by the insurer questioning the award dated 12.02.2013 made in M.C.O.P.Nos.70 and 71 of 2009.

2. The deceased was travelling in the lorry belonging to one Paranthaman which was insured with the appellant herein. On 26.10.2008 at about 5.30 a.m., the lorry capsized and fell into the quarry. In the resulting accident, one Kalimuthu and one Muthupandi died. A case in Crime No.153 of 2008 was registered on the file of the M.Reddiapatti Police Station, regarding the said accident.

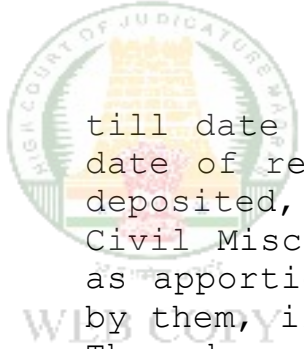
3. The claimants contended that the deceased were working as load men in the said lorry and that the lorry had an insurance coverage for two workmen. Since additional premium was paid, they would be entitled to file a claim petition under the Motor Vehicles Act, 1988. The claim petition was entertained by the Tribunal and the impugned award was passed.

4. The insurer has filed this appeal and contended that the deceased were working in the quarry owned by one Pethi Naidu. They were not the employees of Paranthaman, the lorry owner. The insurance policy would cover the instance case only if the deceased were said to be the employees of the lorry owner but since that was not the case, the insurer ought to have been exonerated.

5. Per contra, learned counsel appearing for the claimants would point out that though by typing error, it was mentioned that the deceased were working as loadman in the quarry, actually, they were working under the said Paranthaman. The Tribunal, took into consideration the evidence adduced on behalf of the claimants and ultimately came to a conclusion that they were only working under the insured. The first claimant in C.M.A.(MD).No.647 of 2015, passed away on 20.06.2013. The learned counsel appearing for the respondents has filed a memo and the same was taken on record.

6. I am of the view that the said conclusion is sound and the same does not warrant any interference. The Tribunal took into account all the relevant aspects and correctly quantified the compensation payable to the claimants and the same does not warrant any interference. Therefore, the award dated 12.02.2013 made in M.C.O.P.Nos.70 and 71 of 2009 on the file of the Motor Accident Claims Tribunal, Sub Court, Aruppukkottai is confirmed.

7. The appellant Insurance Company is directed to deposit the entire compensation amount awarded by the Tribunal with interest at the rate of 7.5% per annum and costs, from the date of petition



till 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, the major claimants in both Civil Miscellaneous Appeals are entitled to withdraw their amount as apportioned by the Tribunal, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal. The share of the minor claimant in C.M.A.(MD).No.648 of 2015 shall be deposited in any one of the Nationalised Bank in an interest bearing account and the natural guardian/mother of the minor claimant is permitted to withdraw the accrued interest once in three months directly from the bank, till he attains majority.

8. Accordingly, C.M.A.(MD)No.647 and 648 of 2015 are dismissed. CROS.OBJ.(MD)No.10 of 2017 also stands dismissed. No costs. Consequently, M.P.(MD)Nos.3 and 3 of 2015 is closed.

Sd/-
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge,
Motor Accident Claims Tribunal,
Aruppukkottai.

Copy to

The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 2 ccs TO Mr.D.Sivaraman , Advocate in SR No. 93084 & 93085
+ 2 ccs TO Mr.V.Thirumal , Advocate in SR No. 92986,92987

psd/kmi
AE/JC/SAR1/03.07.2018/4P/8C

C.M.A. (MD) Nos.647 and
648 of 2015 and
CROS.OBJ (MD) No.10 of 2017
14.12.2017