



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CMA (MD) Nos.888 & 889 of 2016
and
CMP (MD) Nos.8167 & 8168 of 2016

The General Manager,
National Insurance Company Ltd,
Trichy Branch, 2/7, Pudukkottai Road,
Divisional Office,
Rep.by its Divisional Office,
K.R.Buildings, Promenade Road,
Cantonment, Trichy -1.

... Appellant in both CMAs

Vs.

Muthuraman(died)

1.Narmatha

2.Sigappiyammal ... 1st and 2nd respondents in
CMA (MD) No.888 of 2016

3.Amutha

4.Minor Ganesh Kanna
(Rep.by mother, guardian and next
friend, 1st respondent herein)

5.Nallakannu ... 1 to 3rd respondents in
CMA (MD) No.889 of 2016

6.Saravanakumar ... 3rd respondent in
CMA (MD) No.888 of 2016 &
... 4th respondent in
CMA (MD) No.889 of 2016

Common Prayer: Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 09.06.2015 made in MCOP.Nos.5188 & 5187 of 2013 respectively on the file of the Motor Accident Claims Tribunal (Special District Court), Tiruchirappalli.



For Appellant
in both appeals

: Mrs.K.R.Shivashankari
for Mr.S.Srinivasa Raghavan

For Respondents

: Mr.N.Sudhagar Nagaraj for R1 & R2
in CMA(MD)No.888 of 2016 and
for R-1 and R-3 in CMA(MD)No.889 of 2016

Mr.N.Kamesh

for R-3 in CMA(MD)No.888 of 2016 and
for R-4 in CMA(MD)No.889 of 2016

COMMON JUDGMENT

Heard the learned counsel for the parties.

2.The insurance company has filed these appeals questioning the impugned awards principally on the ground of liability.

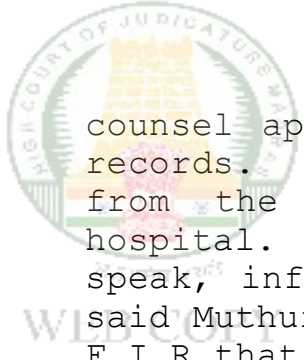
3.On 15.03.2013 one Nagaraj and Muthuraman were riding a Bajaj M-80 and were going on Thirumayam - Thiruppathur Road, an Ambassador car belonging to one Saravanakumar and insured with the appellant driven by one Kumaresan and coming from behind had hit the two wheeler, In the resulting accident, the said Nagaraj died. Muthuraman suffered grievous injuries. In fact, Muthuraman died two years later. MCOP.No.5187 of 2013 was originally filed by Muthuraman and following his demise, his wife and children came on record. MCOP.No.5188 of 2013 was filed by the wife and mother of the deceased Nagarajan.

4.The Tribunal found that the driver of the car was negligent and was responsible for the accident. Since the car was insured with the appellant, the appellant was made liable. A sum of Rs.9,32,366/- was awarded in MCOP.No.5187 of 2013 and a sum of Rs.4,34,000/- was awarded in MCOP.No.5188 of 2013. Both the awards are under challenge in these appeals at the instance of the insurer.

5.The learned counsel appearing for the appellant contended that the ambassador car insured by them was not at all involved in the accident. She drew the attention of this Court to the fact that Ex.P1 F.I.R. was registered on the date of accident. It was mentioned that the two wheeler driven by the deceased dashed against a milestone and both the riders fell down. The ambassador car was not at all mentioned in the F.I.R. It was brought in two months later. The police filed final report Ex.P5 against the driver of the car. He conveniently pleaded guilty. She would further submit that this is a fraudulent claim.

<https://hcservices.ecourts.gov.in/hcservices/>

6.Since serious allegations had been levelled by the learned



counsel appearing for the appellant, I went through the original records. A reading of Ex.P1 F.I.R would show that on intimation from the hospital authorities, the police had gone to the hospital. Since the injured Muthuraman was not in a position to speak, information was gathered from the person who admitted the said Muthuraman in the hospital. It is seen from a reading of the F.I.R that the person who admitted the injured to the hospital was not an eye witness. The F.I.R was registered by noting down the impressions of the informant. Therefore, the case of the claimants cannot be opposed by placing reliance on the contents of the F.I.R.

7. In this case, the police have filed final report Ex.P5, the Charge sheet. The car driver pleaded guilty. The same is also marked as Ex.P6. In Ex.P7 A.I.R. Entries, there is nothing adverse to the case of the claimants. It is pertinent to note that the insurer did not chose to summon any of the interested persons as witnesses. If really a bogus claim was lodged, the insurer would have certainly demanded a reinvestigation by CBCID. No such exercise was ever undertaken.

8. I therefore have no hesitation to come to the conclusion that the case of the claimants cannot be disbelieved merely because, the insurer is raising a serious suspicion. The Tribunal after going through the evidence on record has come to the conclusion that the car belonging to one Saravanakumar was involved in the accident. The compensation fixed by the Tribunal cannot be said to be excessive. The compensation was quantified only after taken into account all the relevant factors. Therefore, no interference is called for. There is no merit in these appeals.

9. The awards dated 09.06.2015 made in MCOP.Nos.5187 & 5188 of 2013 on the file of the Motor Accident Claims Tribunal (Special District Court), Tiruchirappalli are confirmed.

10. The appellant insurance company is directed to deposit the entire compensation amount as awarded by the Tribunal in MCOP.Nos.5187 & 5188 of 2013, with interest at the rate of 7.5% per annum 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, the claimants in both MCOPs are entitled to withdraw the same in the same ratio as apportioned by the Tribunal, by filing proper application, less the amount already withdrawn by them, if any.

11. Both the appeals stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/



To

1. The Special District Judge,
Motor Accident Claims Tribunal, Tiruchirappalli.

WEB COPY

2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

- + 1 cc TO Mr.S.Srinivasa Raghavan , Advocate in SR No. 91538
- + 1 cc TO Mr.N.Sudhagar Nagaraj , Advocate in SR No. 91527
- 1 cc TO Mr.R.Devaraj , Advocate in SR No. 91327

skm

AE/SKN RSK/SAR4/30.05.2018/4P/7C

**CMA (MD) Nos.888 & 889 of 2016
and
CMP (MD) Nos.8167 & 8168 of 2016
06.12.2017**