

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 06.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.869 to 875 of 2000

C.M.A.Nos.869 to 873 and 875 of 2000

M/s.New India Assurance Company Ltd.
Trichy. ... Appellant in all CMAs./2nd Respondent

vs.

Muthulakshmi ... First Respondent in CMA.No.869/2000/Claimant
Vellathangam ... First Respondent in CMA.No.870/2000/Claimant
Ramkannan ... First Respondent in CMA.No.871/2000/Claimant
Babu ... First Respondent in CMA.No.872/2000/Claimant
T.Kumaresa Nadar... First Respondent in CMA.No.873/2000/Claimant

Minor. Ram Prakash
represented by his mother and guardian
Shanthi

... First Respondent in CMA.No.875/2000/Claimant
T.Ramesh ... Second Respondent in all CMAs./1st Respondent
K.Panchalingam ... Third Respondent in all CMAs./3rd Respondent

United India Insurance Co. Ltd.,
by Branch Manager
96-P, K.D.Complex, II Floor
Post Box No.22, Pollachi-2. Fourth Respondent in all CMAs./
4th Respondent

Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 06.04.1998 made in M.C.O.P.Nos. 544, 545, 551, 550, 548 and 553 of 1996 respectively on the file of the Motor Accidents Claims Tribunal, (Subordinate Judge, Ariyalur).

For appellants in all CMAs. : Mrs.R.Sree Vidhya

CMA.No.874 of 2000

M/s.New India Assurance Company Ltd.
...Appellant/2nd Respondent

..VS..

1. Boominathan
2. Vellathangam ...Respondents 1 &2/Claimants 1 & 2
3. T.Ramesh ...3rd Respondent/1st Respondent
4. K.Panchalingam ...4th Respondent/3rd Respondent
5. United India Insurance Co. Ltd.,
represented by Branch Manager
96-P, K.D.Complex, II Floor
Post Box No.22, Pollachi-2.
...5th Respondent/4th Respondent

Civil Miscellaneous Appeal No.874 of 2000 filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree dated 06.04.1998 made in M.C.O.P.No.549 of 1996 on the file of the Motor Accidents Claims Tribunal, (Subordinate Judge, Ariyalur).

For appellant : Mrs.R.Sree Vidhya

COMMON JUDGMENT

These appeals have been filed by the Insurance Company against the award and decree dated 06.04.1998 made in M.C.O.P.Nos.544, 545, 551, 550, 548, 549 and 553 of 1996 respectively, on the file of the Motor Accidents Claims Tribunal, (Subordinate Judge, Ariyalur).

2.The Claim Petitions in M.C.O.P.Nos.544, 545, 551, 550, 548 and 553 of 1996 have been filed before the Tribunal claiming compensation for the injuries sustained by the respective claimants and the Claim Petition in M.C.O.P.No.549 of 1996 has been filed by the claimants claiming compensation for the death of one Siva Ananthi. All the claim petitions are arising out of the accident, which occurred on 28.06.1996 at about 4.00 a.m in Mayor Muthu Bridge, Madurai. The Tribunal, on perusal of documents and upon hearing both sides, came to the conclusion that the respondents 1 to 4 in the claim petitions are jointly and severally liable to pay compensation to the claimants with interest at 12% p.a. from the date of accident ie., from 28.06.1996. The Tribunal also awarded a sum of Rs.2,35,000/- to the claimant in MCOP.No.544 of 1996, Rs.1,95,600/- to the claimant in MCOP.No.545 of 1996, Rs.3,30,000/- to the claimant in MCOP.No.551 of 1996, Rs.2,00,000/- to the claimant in MCOP.No.550 of 1996, Rs.2,35,000/- to the claimant in MCOP.No.548 of 1996, Rs.2,80,000/- to the claimants in MCOP.No.549 of 1996 and Rs.2,00,000/- to the minor claimant in MCOP.No.553 of 1996. Aggrieved by the above orders, the second

respondent in the claim petition / Insurance Company, is before this Court challenging the liability and the quantum of compensation awarded by the Tribunal.

3.The learned counsel appearing for the appellant Insurance Company would vehemently contend that in all the cases, the Tribunal has erred in holding that the appellant/insurer of Maxi-Cab is liable to pay compensation without properly appreciating the evidence and exhibits; that the Tribunal has failed to note that the driver, who drove the vehicle TN-45-C-0747, had no endorsement to drive the vehicle and the fact that the driver was not duly licensed was not disputed by the owner of the vehicle; that the Tribunal has failed to note that the official from the Company had given evidence as RW.2 and he had stated that the owner had produced documents such as R.C., Driving Licence for verification and it transpired that the driver, who drove the Maxi-Cab had no endorsement to drive the Transport Vehicle, but was holding a Light Motor Vehicle only which fact was not denied by the owner even in the cross examination; that the Tribunal had failed to note that the owner of the Maxi-Cab had allowed a person without licence to drive the vehicle, thereby committed breach of conditions and failed to appreciate the pleadings and evidence properly; that the Tribunal had failed to note that the owner, knowing fully well that he will be obliged to answer uncomfortable questions, had avoided giving evidence nor produced the policy any driving licence and the Tribunal ought to have drawn adverse inference as per the ruling of Hon'ble Supreme Court reported in 1997 ACJ 1065 and ought to have exonerated the appellant herein. The learned counsel would also contend that in any event, the Tribunal has erred in awarding a disproportionate award without following the guidelines of the Hon'ble Supreme Court and this Court rendered in identical claims and erred in awarding interest from the date of accident contrary to the provisions of the Act. Hence, she prays for setting aside the awards of the Tribunal.

4.Upon hearing the learned counsel for the appellant and after considering the materials available on record, it could be seen that the Tribunal, only based on the oral and documentary evidence in a proper perspective, came to the conclusion that the respondents 1 to 4 in the claim petitions are liable to pay compensation to the respective claimants. Hence, this Court finds no infirmity in the order of the Tribunal fixing liability on the respondents 1 to 4 in the MCOPs, and accordingly, the same is hereby confirmed.

5.Similarly, the Tribunal has analysed each and every aspect of the case of the claimants and awarded the compensation

amounts. Further, this Court is of the view that the amount of compensation awarded by the Tribunal in all the claim petitions are just and reasonable and hence the same are hereby confirmed.

6. With regard to interest for the compensation amounts, the Tribunal has fixed the interest rate at 12% per annum, but the same has been awarded from the date of accident, which is contrary to the provisions of the Motor Vehicles Act. Hence, while confirming the interest rate fixed by the Tribunal, it is hereby ordered that the interest for the compensation amounts shall be calculated only from the respective dates of petitions and not from the date of accident. Except this modification in the date of commencement of interest, the awards passed by the Tribunal shall remain unaltered in all other aspects.

7. The Civil Miscellaneous Appeals are disposed of accordingly. No costs. The appellant Insurance Company is directed to deposit the compensation amounts as ordered by the Tribunal, but with interest only from the respective dates of petitions and costs, less the amounts already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment. The first respondent-minor in CMA No.875 of 2000 would have attained majority by now. Hence, on such deposit being made, all the claimants are permitted to withdraw their respective shares, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CS-III-MDU)

//True copy//

Sub Assistant Registrar

srk/mra

To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal,
Ariyalur.
2. The Section Officer,
V.R.Section, Madras High Court,
Chennai 104.

+1cc to Mrs.R.Sree Vidhya, Advocate SR.No.68036

C.M.A.No.869 to 875 of 2000

NR(CO)
GMY(22/10/2020)