

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.1495 to 1500 of 2007

and

M.P.Nos.2, 2, 2, 2, 2 and 2 of 2007

The Oriental Insurance Company Ltd.,
Legal Cell, Esplanade,
3rd floor, Chennai 108. ... Appellant in all
CMAs/Respondent No.2

Vs.

Rekha (Minor)
rep. by father and next friend
Subbaiah @ Subbu ... 1st respondent in CMA No.
1495 of 2007/Claimant

Venkatesan, (minor),
(rep.by father and next friend ... 1st respondent in CMA No.
Ramasamy) 1496 of 2007/Claimant

Selvi ... 1st respondent in CMA No.
1497 of 2007/Claimant

Senthilkumar ... 1st respondent in CMA No.
1498 of 2007/Claimant

E.Krishnan ... 1st respondent in CMA No.
1499 of 2007/Claimant

1.K.Selvi

2.K.Sendurpandiyan

3.K.Senthilkumar

4.K.Saravanan (minor)

(rep. by mother and next friend Selvi)

5.Adhammai ... Respondents 1 to 5 in CMA
No.1500 of 2007/Claimants

6.S.Srinivasan

(Remained exparte before Lower Court.

Hence, summons may be dispensed with).

... R2 in CMA Nos.1495
to 1499 of 2007 and R6 in CMA
No.1500 of 2007/Respondent 1

Appeals filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 09.10.2003 in M.C.O.P.Nos. 3737, 3738, 3739, 3740, 3741 and 3742 of 1999, respectively, on the file of the Motor Accidents Claims Tribunal (III Court of Small Causes) of Chennai.

For appellant in all the : Mr.S.Manohar
appeals

For R1 in CMA Nos.1495
to 1499 of 2007 and : Mr.M.Venkateswaran in all CMAs
R1 to R5 in CMA No.1500
of 2007

COMMON JUDGMENT

These Civil Miscellaneous Appeals arise out of the common Judgment dated 09.10.2003 made in M.C.O.P.Nos.3737, 3738, 3739, 3740, 3741 and 3742 of 1999 on the file of the Motor Accidents Claims Tribunal (III Court of Small Causes) of Madras.

2.The facts of the case are that on 19.01.1999 at about 12.00 Noon, the injured claimants and the deceased-Krishnan were travelling in the car bearing Reg.No.MSN-459 from Ulundurpet to Villupuram. At that time, the lorry bearing Reg.No.TNT-0484 belonging to the second respondent in CMA Nos.1495 to 1499 of 2007 and insured with the appellant Insurance Company, came from the opposite direction in a rash and negligent manner and dashed against the car. Due to the impact, the deceased-Krishnan died on the spot and the other claimants sustained grievous injuries. The injured claimants filed separate claim petitions before the Tribunal in MCOP Nos.3737, 3738, 3739, 3740 and 3741 of 1999, claiming compensation for the injuries sustained. The legal heirs of the deceased also filed a claim petition before the Tribunal in MCOP No.3742 of 1999, claiming compensation for the death of the deceased. On consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.1,03,500/-, Rs.45,700/-, Rs.42,300/-, Rs.96,500/-, Rs.1,84,500/- and Rs.11,10,000/-, respectively with interest at the rate of 9% per annum from the respective dates of petitions.

3.Challenging the same, the appellant Insurance Company has come up with these appeals.

4.The learned counsel for the appellant Insurance Company has submitted that the Tribunal has erred in fastening the liability on the appellant Insurance Company. He also submitted that the compensation amounts awarded by the Tribunal are excessive and exorbitant.

5.The learned counsel for the claimants has submitted that the Tribunal has correctly considered the materials and evidence available on record and has passed the impugned judgment, which does not require any interference in the hands of this Court.

6.Ex.P1 is the First Information Report. The complaint has been given by one Govindaraj, eye-witness to the accident, who was having a petty shop in the road where the accident took place. He stated in his complaint that when he was standing in front of his shop at the time of occurrence, the lorry in question came in a rash and negligent manner and dashed against one Saravanan and thereafter against the car and due to the same, the said Saravanan and the occupants of the car sustained grievous injuries. He also stated that one Krishnan alone died due to the accident. Even though counter statements have been filed on behalf of the Insurance Company opposing the contentions made on behalf of the claimants, no one has been examined to substantiate the same. In the circumstances, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the lorry and accordingly fixed the liability on the appellant Insurance Company. This Court is not inclined to interfere with the said factual finding rendered by the Tribunal.

7.With regard to the quantum of compensation awarded by the Tribunal in all these cases, the Tribunal has taken note of the exhibits, evidence of witnesses, medical bills, treatment records, percentage of disability assessed by the Doctor in respect of the injured claimants and the II Schedule of the Motor Vehicles Act in respect of the deceased, and considered all other aspects in a proper perspective and has awarded the above compensation amounts under various heads to the claimants. Further, this Court is of the considered view that the compensation amounts awarded are reasonable and justifiable and hence the same are confirmed.

8.In the result, the appeals are dismissed. Consequently, the connected miscellaneous petitions are closed. No costs. The appellant Insurance Company is directed to deposit the compensation amounts, as awarded by the Claims Tribunal, along with interest 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. All the minor respondents in these appeals, would have attained majority by now, since the claim petitions have been filed in the year 1999. 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)

//True Copy//

To
Sub Assistant Registrar

1. The III Judge, (Motor Accidents Claims Tribunal),
Court of Small Causes, Chennai.

+1 cc to Mr.S.Manohar, Advocate,sr.58710

+6 cc to Mr.M.Venkateswaran, advocate,sr.58658 to 58663

tm(co)
krd 24/6

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M.P.Nos.2, 2, 2, 2, 2 and 2 of 2007

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