

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.2941 and 2942 of 2006
and M.P.Nos.3 and 3 of 2006

The Oriental Insurance Co.Ltd.,
U.I.L.Building, No.8, Esplanade,
Near High Court,
Chennai-108.

... Appellant/2nd respondent
in both appeals

Vs

1.Meera
2.Dhanalakshmi
3.Mohanraj
4.Minor Anandakumar
5.Minor Kamalesh
(Minors rep.by their mother Meera,
the first respondent herein).
6.Y.Muthumari

.... Respondents/Petitioners/1st
respondent in CMA No.2941 of 2006

1.Meera

2.Y.Muthumari

.... Respondents/Petitioner/1st
respondent in CMA No.2942 of 2006

CMA No.2941 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 17.02.2005 made in MCOP No.311 of 1999 on the file of the Motor Accidents Claims Tribunal (Additional District Judge), Kancheepuram, FTC-II.

CMA No.2942 of 2006 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 17.02.2005 made in MCOP No.308 of 1999 on the file of the Motor Accidents Claims Tribunal (Additional District Judge), Kancheepuram, FTC-II.

For Appellant : Mr.J.Chandran
in both appeals

For Respondents : No appearance for R1 to R3
in both appeals in CMA No.2941 of 2006

No appearance for R1 in
CMA No.2942 of 2006

COMMON JUDGMENT

CMA No.2941 of 2006 is preferred by the Insurance Company against the award of a sum of Rs.3,76,400/- towards compensation to the respondents 1 to 4, due to the death of the deceased Balaraman.

2.CMA No.2942 of 2006 is preferred by the Insurance Company against the award of a sum of Rs.18,000/- towards compensation to the first respondent for the injuries sustained in a motor vehicle accident.

3.The case in brief, is as follows:

The deceased Balaraman (as an agent of the goods), as well as the first respondent in CMA No.2942 of 2006 and others, were travelling in a Tempo Van bearing Reg.No.TN-74-7277 on 23.05.1999 from Madras towards Kancheepuram in the GWT Road. At about 8.30 p.m., the driver of the van drove it in a rash and negligent manner and due to the same, the van dashed against a lorry parked near Pompon Oil Mill. Due to the said impact, the occupants of the van sustained grievous injuries. The deceased Balaraman was admitted in the hospital and thereafter he died in the hospital. The first respondent in CMA No.2942 of 2006 sustained grievous injuries. Claim petitions were filed before the Tribunal and on consideration of the evidence available on record, the Tribunal awarded a total compensation of Rs.3,76,400/- with interest at the rate of 9% per annum from the date of petition, to the legal heirs of the deceased in CMA No.2941 of 2006. A sum of Rs.18,000/- with interest at the rate of 9% p.a. from the date of petition, was awarded to the claimant in CMA No.2942 of 2006.

4.Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeals.

5.The learned counsel for the appellant has submitted that the the learned Tribunal went wrong in awarding a sum of Rs.3,76,400/-, when the claim itself was Rs.3,00,000/-, in

respect of CMA No.2941 of 2006. In respect of the injured, he submitted that the compensation awarded by the Tribunal is excessive and exorbitant. He further submitted that the deceased and the injured themselves have invited the accident by travelling as passengers in the goods vehicle.

6. Heard the learned counsel for the appellant.

7. Even though these appeals were admitted way back in the year 2006, the appellant Insurance Company has not taken any steps to serve papers to the other side. There is no representation on behalf of the claimants in both these appeals today. Ex.P1 is the true copy of the First Information Report, which shows that a complaint was given by one Balaji against the driver of the Tempo Van and the same was also registered. The driver of the van was not examined to speak about the accident. Considering the evidence of P.W.1-Injured in CMA No.2942 of 2006 and P.W.2-One another injured person connected to the accident, the Tribunal categorically came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the van, which this Court is not inclined to interfere. With regard to the quantum of compensation awarded by the Tribunal, the Tribunal has correctly relied upon Ex.P3-Certified copy of Post Mortem Certificate of the deceased and Ex.P7-Pay Slip of the deceased, adopted the multiplier of 11 and arrived at the loss of income at Rs.3,56,400/-. The Tribunal also awarded a sum of Rs.5,000/- towards loss of estate, Rs.5,000/- towards loss of consortium, Rs.5,000/- towards loss of love and affection and Rs.5,000/- towards funeral expenses, thus totalling to Rs.3,76,400/-. The amounts awarded by the Tribunal under various heads are reasonable and hence the same are confirmed.

8. In respect of CMA No.2942 of 2006, the claimant therein sustained multiple injuries and she was in-patient in the hospital for one day. Considering Ex.P17-Wound Certificate of the injured, and Ex.P2-Discharge Summary, the Tribunal has arrived at a sum of Rs.18,000/- as total compensation to be paid to the injured, which, in my considered opinion, does not require any interference.

9. In view of the above stated circumstances, the Civil Miscellaneous Appeals are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed. The appellant Insurance Company is directed to deposit the award amounts as ordered by the Tribunal with interest, after deducting the amounts if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. The fourth and fifth respondents in CMA No.2941 of 2006, would have

attained majority by now. Hence, on such deposit, all the claimants are permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

KM

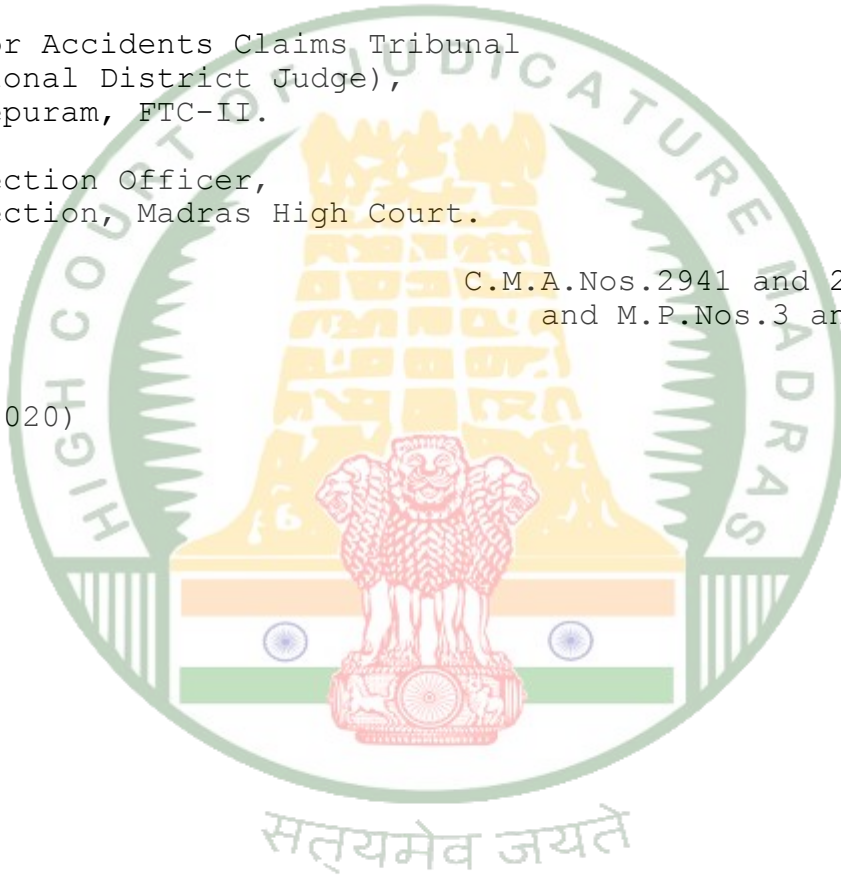
To

1.The Motor Accidents Claims Tribunal
(Additional District Judge),
Kancheepuram, FTC-II.

CC: The Section Officer,
VR Section, Madras High Court.

C.M.A.Nos.2941 and 2942 of 2006
and M.P.Nos.3 and 3 of 2006

GJ(CO)
CB(24/01/2020)



WEB COPY