

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.3387 to 3389 of 2008
and
M.P.Nos. 1, 1 and 1 of 2008

The New India Assurance Company Ltd.,
represented through its Branch Manager,
149, Bharathiyar Road, Karaikal. ... Appellant in all CMAs/
2nd Respondent

Vs.

1. T.Govindaraju,
2. R.Vasuki
3. G.Chelladurai,
4. S.Santhanalakshmi
5. M.Anjalatchi
6. M.Ananda Valli
7. G.Elatchi
8.G.Vellaiyammal
9. G.Ayyappan
10. G.Selvamani (minor)
11. G.Arivazhagan (minor)
(10th and 11th respondents are represented by
their guardian)

...Respondents No.1 to 11 in CMA 3387/08/Claimants
12. P.Selvam ...12th Respondent/1st Respondent
in CMA.No.3387 of 2008

1.A.Anjammal ...1st Respondent in CMA No.3388/08/Claimant

2. P.Selvam ...2nd Respondent/1st Respondent in CMA.No.3388/08

1.R.Chellatchi ...1st Respondent in CMA.3389/08/Claimant

2. P.Selvam ...2nd Respondent in CMA.No.3389 of 2008/
1st Respondent

These Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 30.06.2004 in M.C.O.P.Nos.617 to 619 of 2003 on the file of the Motor Accidents Claims Tribunal, (District Court), Nagapattinam.

For Appellant : Mrs.R.Sreevidhya in all the appeals

R1 : Died

For R2 to 7 & 9 : Mr.M.Thamizhavel
in CMA.No.3387 of 2003

R1 in CMA No.3388 & 3789/08

R12 in CMA No.3387 of 2003 &

R2- in CMA.3388 &3389/08: Given Up

C O M M O N J U D G M E N T

These Civil Miscellaneous Appeals arise out of a common Judgment dated 30.06.2004 passed by the Motor Accidents Claims Tribunal, District Court, Nagapattinam (for brevity, "the Tribunal"), in M.C.O.P.Nos.617 to 619 of 2003, arising out of the one and the same accident. Hence, they were heard together and are being decided by this common judgment.

2.In an accident, that took place on 30.06.2003, one Nagammal died and the first respondent(s)/claimants in CMA.Nos.3388 and 3389 of 2008 sustained grievous injuries, due to the fault on the part of the driver of the auto bearing Regn.No.PY02 A 8019 insured with the appellant insurance company. Hence, the legal heirs of the deceased and the claimants have filed respective claim petitions claiming compensation. On consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.2,54,964/- to the claimants in MCOP.No.617 of 2003, Rs.25,000/- to the claimant in C.M.A.No.618 of 2003 and Rs.59,118/- to the claimant in MCOP.No.619 of 2003. Aggrieved over the same, the appellant insurance company has preferred the present appeals.

3.Today, when the appeals are taken up for consideration, the learned counsel for the appellant insurance company fairly submitted that the appellant already preferred a batch of petitions viz., CRP (NPD) Nos.1095 to 1098 of 2008 against the

very same common award dated 30.06.2004 passed by the Tribunal in MCOP.Nos.620 to 623 of 2003 raising the identical grounds made herein and the said batch of petitions were dismissed by this Court vide order dated 04.08.2017.

4.This Court perused the aforesaid order dated 04.08.2017 passed by this Court in CRP(NDP)Nos.1095 to 1098 of 2008, the relevant portion of which, reads as follows:

"13. Considering the materials on record in entirety, I hold that the claimants were not travelling in the load auto at the time of accident and the accident occurred, only when they were standing on the road. In the circumstance, the learned Judge rightly held that the petitioner is liable to pay compensation. There is no irregularity or illegality in the judgment and decree of the Tribunal dated 30.06.2004.

14. In the result, the Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed."

5.Following the aforesaid order, the present appeals stand dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

6.The appellant Insurance Company is directed to deposit the compensation amount as awarded by the Tribunal along with interest and costs, less the amount already deposited if any, within a period of four weeks from the date of receipt of a copy of this judgment. The minor respondents in CMA.No.3387 of 2008 would have attained majority as of now. On such deposit being made, all the claimants and the legal heirs of the deceased claimant are permitted to withdraw their respective compensation amounts, as apportioned by the Tribunal, on making proper application.

Sd/-
Assistant Registrar(CO-MDU)

//True Copy//

Sub Assistant Registrar

av
To

1.The District Judge,
Motor Accidents Claims Tribunal,
Nagapattinam.

+1cc to Mrs.R.Sreevidhya, Advocate SR.58640
+1cc to Mr.M.Thamizhavel, Advocate SR.57478

C.M.A.Nos.3387 to 3389 of 2008
and M.P.Nos. 1, 1 and 1 of 2008

TM(CO)
CB(16/06/2020)



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