

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.11.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.2436 to 2438 of 2015
and M.P.Nos.1, 1 and 1 of 2015

National Insurance Co. Ltd.,
110, J.N.Street,
Pondicherry - 1.

... Appellant in all the appeals

Vs

Kannan ... 1st respondent in CMA 2436/2015

D.Perumal ... 1st respondent in CMA 2437/2015

S.Sakthivel ... 1st respondent in CMA 2438/2015

R.Jayabanu ... 2nd respondent in all the appeals

Appeals under Section 173 of the Motor Vehicles Act against the judgment and decree dated 15.12.2014 made in M.C.O.P.Nos.1129,1130,1131 of 2009 respectively, on the file of the Motor Accidents Claims Tribunal, (II Additional Subordinate Judge), Cuddalore.

For Appellant : Mr.S.Vadivel
in all appeals

For R-1 : Mr.S.R.Sreedhar
in all appeals

COMMON JUDGMENT

These appeals have been preferred by the Insurance Company against a common award dated 15.12.2014 passed by the claims Tribunal in MCOP.Nos.1129 to 1131 of 2009, arising out of the same accident. Hence, they were heard together and are being decided by this common judgment.

2.The case in brief, is as follows:

On the fateful day, ie. on 19.02.2009, the first respondent (s) in C.M.A.Nos.2436 and 2437 of 2015 were pillion riders of the TVS Victor motorcycle bearing Registration No.PY-01-S-3351 and the first respondent in C.M.A.No.2438 of 2015 was the rider of the said motorcycle. When they were proceeding from West to East direction in Savadi Main Road, the Indica Car bearing

Registration No.TN-31-AB-2057 belonging to the second respondent and insured with the appellant insurance company, came in a rash and negligent manner and dashed against the motorcycle from the opposite direction. Due to the said impact, the first respondent(s) / injured fell down from the vehicle and sustained grievous injuries. They filed separate claim petitions claiming compensation of Rs.50,000/-, Rs.6,00,000/- and Rs.50,000/- respectively. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.20,000/-, Rs.2,57,000/- and Rs.20,000/- respectively, with interest at the rate of 7.5% per annum from the date of petitions.

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

4.The learned counsel for the appellant has not disputed the quantum of compensation awarded by the Tribunal. But he submitted that Indica car bearing Regn.No.TN 31 AB 2057 was not at all insured with the appellant. Hence, according to the learned counsel, the appellant insurance company is not liable to pay any compensation to the claimants.

5.The learned counsel for the claimants in these appeals, has submitted that the Tribunal has considered the materials and evidence in proper perspective and has rendered its findings on negligence and liability and ultimately awarded the just compensation and hence, no interference is called for by this Court.

6.Heard the learned counsel appearing for the appellant and learned counsel appearing for the first respondent(s)/claimants and perused the materials available on record carefully and meticulously.

7.There is no grievance with regard to the factum of accident and the manner in which the accident took place.

8.The main contention of the learned counsel appearing for the appellant is that on the date of accident, there was no insurance policy issued by the appellant, in respect of the vehicle involved in the accident. According to the appellant, the Indica car bearing Registration No.TN-31-AB-2057 was insured with ICICI Lombord Insurance Company. To support their stand, they examined the Investigator and Senior Assistant attached to the office of the appellant, as R.W.1 and R.W.2 and marked Exs.R1 to R3 documents. However, R.W.1 has categorically admitted in his evidence that Column No.10 of Ex.P2 -Motor Vehicle Inspector's report mentioned about the policy number and the insurance company relating to the offending vehicle. In the absence of any contra evidence adduced on the side of the

appellant insurance company, the Tribunal has rightly fastened the liability on the appellant insurance company to pay compensation to the claimants, which finding this Court is not inclined to interfere.

9. Since the quantum of compensation awarded by the Tribunal in all the cases, is not disputed by the appellant insurance company, the same is confirmed as such.

10. In the result, all 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 and costs, after deducting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the first respondent(s) / claimants in these appeals are permitted to withdraw the same, on making proper applications before the Tribunal.

Sd/-

Assistant Registrar (CS III)

//True Copy//

Sub Assistant Registrar

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To

The II Additional Subordinate Judge,
Motor Accidents Claims Tribunal
Cuddalore.

Copy to

The Section Officer,
VR Section,
High Court, Madras

+3ccs to Mr.S.Vadivel, Advocate SR.No. 95398,95399,95400

+3ccs to Mr.R.Sreedhar, Advocate SR.No. 95482,95489,95484

C.M.A.Nos.2436 to 2438 of 2015
and M.P.Nos.1, 1 & 1 of 2015

A.SK (21/09/2020)