

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2020

C O R A M

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1605 of 2008 & 796 of 2009
and

C.M.P. No.1 of 2008 and CM.P. No.1 of 2009

New India Assurance Co. Ltd.
Branch Office,
Kumaran Road, Tirupur ...Appellant
(in CMA. No.1605 of 2008)

National Insurance Co. Ltd.,
Branch Office,
Thiruchengodu ... Appellant
(in CMA. No.796 of 2009)

Versus

1.Vanitha W/o Late Ravichandran
2.Minor Nivetha D/o. Late Ravichandran
(2nd Minor Petitioner are represented
by next friend Mother Ist Petitioner)
3. Mr. Perumal S/o. Vaiyapuri
4. Mrs. Thayammal
5. Mrs. R. Arunthathi W/o.
Rajavelu Respondents
(in Both cases)

M/s.National Insurance Co. Ltd.
Branch Office, Thiruchengode.
..... Respondent
(6th Respondent in CMA No.1605 of 2008)

Mrs.Thilagam ... Respondent
(6th Respondent in CMA No.796 of 2009 and 7th Respondent in CMA
No.1605 of 2008)

New India Assurance Company Ltd.
Branch Office, Kumaran Road,
Tirupur.
... Respondent
(7th Respondent in CMA No.796 of 2009)

Common Prayer: Civil Miscellaneous Appeals filed against the order and decree dated 09.12.2005 made in M.C.O.P.No.137 of 2002 on the file of the Motor Accident Claims Tribunal, Sub Judge, Mettur.

For Appellant : Mr.J. Chandran

For Respondents 1 -4 : N.S. Sivakumar
For Respondent 6 : S. Arun Kumar
For Respondent 5 : No Appearance
For Respondent 7 : Not ready

(In CMA No.1605 of 2008)

For Appellant : Mr.S. Arun Kumar

For Respondents 1 -4 : S.P.Yuvaraj
For Respondent 6 : Not Ready
For Respondent 5 : No Appearance
For Respondent 7 : Mr.J. Chandran

(In CMA No.796 of 2009)

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

The appellants who are different Insurance Companies have filed these appeals against the Award and Decree made in M.C.O.P.No.137 of 2002 dated 09.12.2005 on the file of the Motor Accident Claims Tribunal, Sub-Ordinate Judge, Mettur whereby both Insurance companies were ordered to be liable for compensation.

2. When the matter is taken up today for disposal, the learned counsel for the appellant in C.M.A. No.796 of 2009 would submit that the connected claims arising out of the same accident in MCOP Nos.468, 472, 473, 487, 488 & 581 of 2002, Motor Accident Claims Tribunal-Erode, M/s. New India Assurance Co. Ltd./7th respondent in the aforesaid CMA namely, the appellant in CMA. No.1605 of 2008 has accepted the total liability of compensation. Hence, the question of liability on the side of the appellant in CMA No.796 of 2009 does not arise. Accordingly, the learned counsel has also filed a memo along with copy of the award passed in Motor Accident Claims Tribunal, (Chief Judicial Magistrate Court) before this Court.

3. The learned counsel for the 7th respondent in CMA No.796 of 2009 namely, the appellant in CMA. No.1605 of 2008 has no objection for the aforesaid submission.

4. Taking into consideration the award passed by the learned Chief Judicial Magistrate, Erode, in the similar accident cases and the memo filed by the learned counsel for the appellant in CMA No.796 of 2009, the liability fixed by the Tribunal on M/s.National Insurance Co. Ltd. is hereby quashed and the liability on the side of the M/s.New India Insurance Co. Ltd is hereby confirmed. Accordingly, the appellant in CMA No.1605 of 2008 /the New India Insurance Co. Ltd is directed to deposit the entire award amount of Rs.10,74,000/- if any, in MCOP No.137 of 2002 within a period of four weeks from the date of receipt of copy of this order. The memo shall form part of the order.

5. On such deposit, the claimants are directed to withdraw their respective shares as awarded by the Tribunal.

6. In view of the above, CMA. No.796 of 2009 is allowed and the CMA No.1605 of 2008 is dismissed. Consequently, connected miscellaneous petitions are closed. No Costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Motor Accident Claims Tribunal,
Sub Judge, Mettur.

2.The Section Officer,
V.R.Section, High Court, Madras.

+1cc to M/s.J.Chandran, Advocate Sr.15311
+2cc to M/s.S.P.Yuaraj, Advocate Sr.14895 & 14896
+1cc to M/s.S.Arunkumar, Advocate Sr.15346

C.M.A.No.1605 of 2008 & 796 of 2009
and
C.M.P. No.1 of 2008 and C.M.P. No.1 of 2009

srg 06/01/2021