

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.09.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.Nos.198 and 199 of 2014
and M.P.Nos.1 and 1 of 2014

M/s.National Insurance Co. Ltd.,
Gobichettipalayam.

...Appellant in both
C.M.A. Nos.198 and 199
of 2014

vs.

1.M.Narendran
2.G.Balasubramaniam

... Respondents in
C.M.A. No.198 of 2014

1.M.Rajagopal
2.G.Balasubramaniam

... Respondents in
C.M.A. No.199 of 2014

Common Prayer: Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated in M.C.O.P. No.436 of 2010, and M.C.O.P.No.885 of 2010, both dated 07.02.2013 on the file of the Motor Accident Claims Tribunal, (Subordinate - Judge) Sathyamangalam at Erode - District.

For Appellant

in both CMAs : Mr.J.Chandran

For Respondents

in both CMAs : Mr.V.P.Karthikeyan for R1
R2 - served - no appearance

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COMMON JUDGMENT

(This appeal was heard through the Video Conferencing)

These appeals have been filed by the Insurance Company challenging the common award dated 07.02.2013 passed by the Motor Accidents Claims Tribunal (Subordinate - Judge) Sathyamangalam at Erode District in MCOP Nos.436 and 885 of 2010.

2. MCOP NO.436 of 2010 was filed by the first respondent in CMA No.198 of 2014, who was the rider of the Motor vehicle bearing Registration No.TN 38 AP 8087. MCOP No.885 of 2010 was filed by the first respondent in CMA No.199 of 2014, who was the pillion rider in the same motor cycle.

3. The respective claimants sustained injuries on 18.01.2010 as a result of an accident caused by a vehicle (Maruti Car bearing Registration No.TN 07 H 0225, owned by the second respondent in the respective Civil Miscellaneous Appeals and insured with the Appellant / Insurance Company. The respective claimants preferred separate claims before the Motor Accidents Claims Tribunal (Subordinate - Judge) Sathyamangalam at Erode District. Seeking compensation for the injuries sustained by them.

4. The Motor Accident Claims Tribunal (Subordinate - Judge) Sathyamangalam at Erode District, by its common award dated 07.02.2013 directed the Appellant/ Insurance Company to pay a) the first respondent in CMA No.198 of 2014 a compensation of Rs.3,22,250/- together with interest and costs and b) the first respondent in CMA No.199 of 2014 a compensation of Rs.14,990/- together with interest and costs.

5. The details of the compensation awarded to the respective claimants under the impugned award are as follows :-
MCOP No.436 of 2010 corresponds to CMA No.198 of 2014

Heads	Amount awarded by the Tribunal (Rs.)
Loss of earning	2,64,600
Transportation as per Ex.P10	3,000/-
Medical bills as per Ex.P.9	54,000/-
Total	3,21,600

M.C.O.P.No.885 of 2010 corresponds to CMA No.199 of 2014

Heads	Amount awarded by the Tribunal (Rs.)
For simple injuries, as per Ex. P2	12000
Medical bills, as per Ex.P.15	1490
Transportation, as per Ex.P16	1500
Total	14,990

6. The Tribunal has committed a calculation error while assessing the total compensation payable to the first respondent in CMA No.198 of 2014, who is the claimant in MCOP No.436 of 2010. Thus, the total compensation under the impugned award works out to Rs.3,21,600/- and not Rs.3,22,250/-.

7. Heard Mr.J.Chandran, learned counsel for the appellant and Mr.V.P.Karthikeyan, learned counsel for the first respondent. Despite service of notice on the second respondent, there is no representation on his behalf.

8. This Court has perused the materials and evidence available on record before the Tribunal.

9. The appellant has raised the following in both the appeals.

a) The first ground is that they are not liable to compensate the claim since there is no privity of contract of insurance between the owner of the vehicle as the Registration Certificate has not been transferred in the name of the second respondent at the time of the accident and in the absence of insurable interest, the Tribunal ought to have exonerated the liability of the insurance company.

b) The quantum of compensation awarded by the Tribunal to the respective claimants is excessive.

10. Insofar as the first contention raised by the appellant questioning the liability is concerned, the same is rejected, in view of the Section 157 of Motor Vehicles Act, which reads as follows :

157.Transfer of certificate of insurance.--(1) Where a person, in whose favour the certificate of insurance has been issued in accordance with the provisions of this Chapter, transfers to another person the ownership of the motor vehicle in respect of which such insurance was taken together with the policy of insurance relating thereto, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer.

11. Admittedly, in the case on hand, the insurance policy stands in the name of the second respondent and there is an insurance coverage on the date of the accident for the vehicle which was involved in the accident. A consistent stand has also been taken by the respective claimants that the ownership of the vehicle has been transferred in the name of the second respondent in both the appeals and the insurance policy also

stands in his name. This being the case, the contention raised by the appellant in this appeal questioning its liability cannot be accepted by this Court. No contra evidence has been produced by the appellant / Insurance Company to disprove the contention of the respective claimants that the vehicle is owned by the second respondent. Therefore, the first contention raised by the appellant is rejected by this Court.

12. According to the Appellant / Insurance Company, the Tribunal ought not to have adopted the multiplier method for the assessment of the compensation pertaining to the claimant in MCOP No.436 of 2010, who is the first respondent in CMA No.198 of 2014. Further, it is their contention that the quantum of compensation awarded by the Tribunal to the respective claimants is excessive.

13. Insofar as MCOP No.436 of 2010, which corresponds to CMA No.198 of 2013, the Tribunal has awarded compensation only under the following three heads :

Loss of earning	2,64,600
Transportation as per Ex.P10	3,000/-
Medical bills as per Ex.P.9	54,000/-

14. The Tribunal has failed to award any compensation towards pain and suffering, extra nourishment charges, attender charges and future medical expenses, which the claimant is legally entitled to. If the same was granted by the Tribunal, even if the multiplier method was not adopted, the assessment of the overall compensation would be more or less the same as was done by the Tribunal under the impugned award in favour of the claimant in MCOP No.436 of 2010.

15. Similarly, insofar as the award passed in favour of the claimant in MCOP No.885 of 2010, who is the first respondent in CMA No.199 of 2014, the Tribunal has awarded only a compensation of Rs.14,990/- comprising of Rs.12,000/- towards simple injuries as per Ex.P2, Rs.1490/- towards medical bills as per Ex.P15 and Rs.1,500/- towards transportation as per Ex.P16, which cannot be considered to be excessive, considering the year of the accident as alleged by the appellant. Therefore, the second contention raised by the appellant that the quantum of compensation is excessive is also rejected by this Court.

16. For the foregoing reasons this Court does not find any infirmity in the findings of the Tribunal. Therefore, there is no merit in these appeals and accordingly, both Civil Miscellaneous Appeals shall stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

17. The Appellant / Insurance Company is directed to deposit the entire award amount awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of realization, less the amount, if any, already deposited to the credit of respective M.C.O.P. No.436 of 2010, and M.C.O.P.No.885 of 2010, on the file of the Motor Accident Claims Tribunal, (Subordinate - Judge) Sathyamangalam at Erode - District, within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the first respondent /claimant in respective CMAs through RTGS, within a period of two weeks thereafter.

Sd/-
Assistant Registrar (CS II)

/true copy/

Sub Asst. Registrar

vsi2

To

1.The Sub Judge,
Motor Accidents Claims Tribunal,
Sathyamangalam
Erode - District.

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

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C.M.A.Nos.198 and 199 of 2014

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