

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No. 3007 of 2007

M/s.National Insurance Company Ltd.,
Mettupalayam Branch, R.V.R. Building,
(First Floor) 157, Karamadai,
Mettupalayam.

... Appellant

Vs.

Rangasamy (Died)
1. Rangamma
2.K. Venkatachalapathi
3.Muthuselvan

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree passed in MACT O.P. No.72 of 1993, on the file of the Motor Accidents Claims Tribunal, District Judge, Udthagamandalam, Nilgiris District, Dated 16.04.2007.

For Appellant : Mrs. B. Surekha

For Respondents : R1 to R3 - No Appearance

JUDGMENT

This Appeal has been filed by the Insurance Company challenging its liability to pay the compensation under the impugned award dated

16.04.2007 passed by the Motor Accident Claims Tribunal, District Judge, Udthagamandalam in M.C.O.P. No.72 of 1993.

2. Heard, Mrs. B. Surekha, learned counsel for the Appellant.

3. The Appellant has challenged the impugned award on the ground that since the deceased is himself the insured, the claimants who are his dependants are not entitled for any compensation. According to them, the Tribunal under the impugned award has erroneously awarded compensation to the respondent/ claimant. In support of the contentions raised by the Appellant in this Appeal, learned counsel for the Appellant drew the attention of this Court to the following authorities :

i) ***Naveen Kumar Vs Vijay Kumar & Others*** reported in ***CDJ 2018 SC 071*** and

ii) ***TATA AIG General Insurance Company Limited vs Govindarajan and 2 others***, decision of a Single Bench of this Court dated 10.09.2020 passed in CMA No.4862 of 2019.

4. Learned counsel for the Appellant also drew the attention of this Court to Paragraph No.14 of the impugned award, where a categorical finding has been given by the Tribunal stating that the registration certificate for the insured vehicle stands in the name of one A. Arul, who

is the insured and who is the deceased and for whom compensation has been claimed by his dependants in M.C.O.P. No. 72 of 1993 which is the subject matter of this Appeal. As seen from the impugned award, the accident happened on 01.09.1992 and on the date of the accident the Registration Certificate for the insured vehicle stood only in the name of the insured (A. Arul) and only thereafter, after his death, it was transferred in the name of his mother with effect from 02.09.1992 and thereafter in the name of the second respondent, Muthuselvan with effect from 19.12.1993. Therefore, it is very clear that the deceased cannot be considered to be a third party as he himself is the insured.

5. The Appellant /Insurance Company is statutorily liable to pay the compensation only if the conditions stipulated under Section 147 of the Motor Vehicles Act have been satisfied.

6. In the case on hand, the conditions have not been satisfied and therefore, the Insurance Company is not statutorily liable to pay the compensation as the deceased himself is the insured and is not a third party.

7. The decisions relied upon by the learned counsel for the Appellant referred to supra also supports the Appellant's case.

8. For the foregoing reasons, this Court is of the considered view that erroneously, the Tribunal has fastened the liability on the Appellant Insurance Company under the impugned award. Hence, the impugned award dated 16.04.2007 passed by the learned District Judge, Motor Accidents Claims Tribunal, Udthagamandalam, Nilgiris District in MCOP No.72 of 1993, is hereby set aside as against the appellant / Insurance Company and the Civil Miscellaneous Appeal is allowed. No costs.

सत्यमेव जयते

06.10.2021

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order

ab/vsi2

To

1. The District Judge,
Motor Accidents Claims Tribunal,
Udhagamandalam,
Nilgiris District
2. The Section Officer,
V.R. Section,
High Court, Madras.

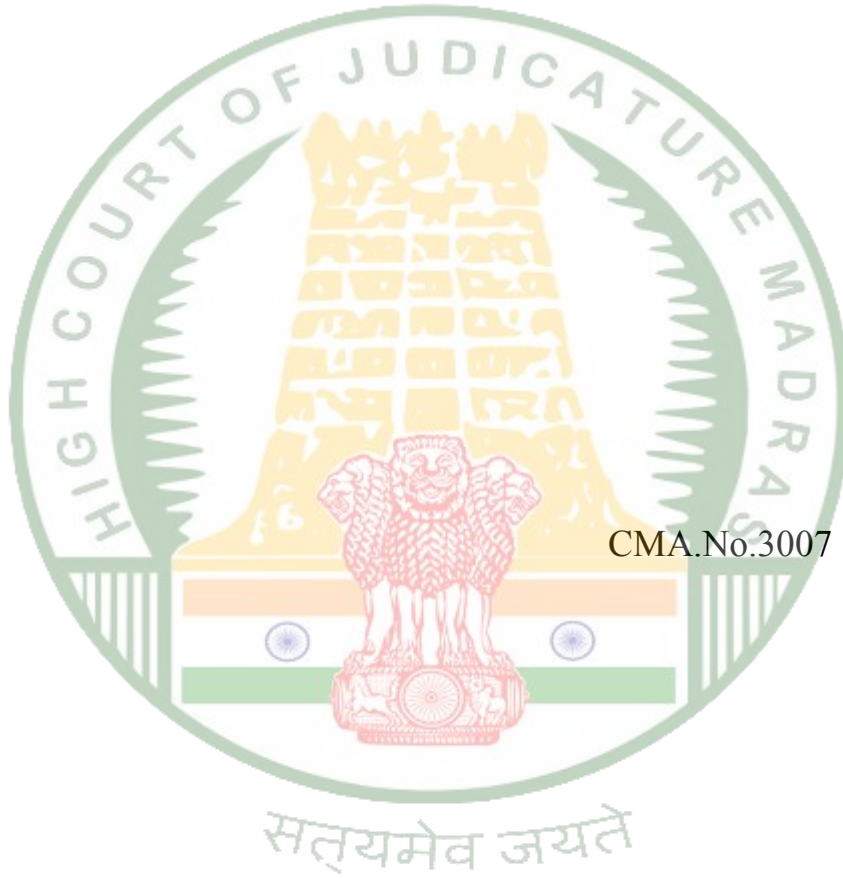


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ABDUL QUDDHOSE, J.

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