

In the High Court of Judicature at Madras

Dated: 07.01.2021

Coram

The Honourable Mr. Justice D.KRISHNA KUMAR

C.M.A. Nos.222 & 223 of 2012
and M.P.Nos.1 & 1 of 2012

The United India Insurance Co. Ltd.,
50-A, Pallivasal Street,
Perambalar.

... Appellant in both Appeals/
2nd Respondent

..Vs..

1.Sarbunnisha ... 1st Respondent in CMA.222 of 2012/
Claimant in MCOP.No.245/2004

2.Sankar ... 1st Respondent in CMA.223 of 2004/
Claimant in MCOP.No.223/2012

3.R.Kandasamy ... 2nd Respondent in both Appeals/
1st Respondent

3.M.Mohamed Farook ... 3rd Respondent in both Appeals/
4th Respondent

Common Prayer: These Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed by the learned Chief Judicial Magistrate, (MACT), Perambalur in M.C.O.P.Nos.245 & 274 of 2004 respectively dated 04.08.2011.

For Appellant : Mr.S.Arun Kumar

For Respondent-1 : Mr.T.Gobinath

For Respondent-2 & 3 : No Appearance

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

These appeals have been filed by the Insurance Company challenging the awards dated 04.08.2011 passed by the Motor Accident Claims Tribunal/ learned Chief Judicial Magistrate, Perambalur in M.C.O.P.Nos.245 & 274 of 2004 respectively on the ground of liability, where the claim petitions filed by the

first and second respondent herein/claimants were allowed in part and a sum of Rs.1,11,000/- and Rs.10,000/- with interest at the rate of 7.5% per annum was awarded to the claimants.

2. Heard Mr.S.Arun Kumar, learned counsel appearing on behalf of the Insurance Company and Mr.T.Gobinath, learned counsel for the claimants/respondents 1 & 2 herein.

3. The respondents/claimants have filed claim petitions in MCOP.Nos.245 & 274 of 2004 before the learned Chief Judicial Magistrate, (MACT), Perambalur, claiming a compensation of Rs.3 lakhs and Rs.40,000/- respectively for the injuries sustained by them in the accident that took place on 02.12.2003. Before the Tribunal, the Insurance Company has specifically denied the averments made by the claimants as false and also submitted that there was no negligence on the part of the driver of the first respondent vehicle which was insured with the appellant herein and contended that the first respondent's vehicle was not involved in the said accident.

4. The learned counsel for the Insurance Company submitted that the Insurance company has filed a criminal complaint for falsely implicating their insured vehicle for the purpose of claim for reinvestigation. The Tribunal had rejected the contentions of the Insurance company and awarded a sum of Rs.1,11,000/- to the claimant in MCOP.No.245 of 2004 and insofar as the MCOP 274 of 2004 is concerned, a sum of Rs.10,000/- has been awarded to the claimant as compensation. Assailing the said awards, the Insurance company has preferred the above said appeals before this Court.

5. The learned counsel for the appellant submitted that the Insurance company has raised the ground that they are not liable to pay the compensation as there was no involvement of their insured vehicle in the said accident that took place on 02.12.2003. Hence, the Insurance company had preferred a criminal complaint before the CBCID, Perambalur and also sought for reinvestigation by the CBCID for falsely implicated their insured vehicle. According to the learned counsel for the appellant, the ground of quantum was not seriously disputed by them.

6. The entire fact of the case will be decided only on the genuineness of the claim made by the claimants. The accident was happened on 02.12.2003 and the said complaint was also filed before the CBCID during that period of time. Though more than 17 years have been lapsed, no progress has been shown in investigating the complaint and filing of the final report. This Court has given sufficient opportunity for the Insurance Company for producing the status of the criminal cases pending for

reinvestigation before the CBCID but no such report has been filed before this Court as on date. Therefore, this Court is not inclined to accept the said contention of liability of the Insurance company in respect of the non involvement of their insured vehicle, to interfere with the award passed by the Tribunal. Consequently, there is no merits in the appeals as contended by the appellant Insurance company. Hence, this Court is of the considered view that the aforesaid appeals are liable to be dismissed.

7. Considering the facts and circumstances of the case, this Court is not inclined to interfere with the award passed by the Tribunal and hence the Civil Miscellaneous Appeals are dismissed. It is brought to the notice of this Court that the entire award amount has been deposited by the Insurance Company. The respondents/ claimants are entitled to withdraw the entire/balance amount, if not already withdrawn, on filing of appropriate petition before the court concerned. Consequently, connected Miscellaneous Petition is closed. There shall be no orders as to costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

DP

To
The Chief Judicial Magistrate Court,
(The Motor Accident Claims Tribunal)
Perambalur.

+1 cc to Mr.S.Arunkumar, Advocate Sr No.1308

C.M.A. Nos.222 & 223 of 2012
and
M.P.Nos.1 & 1 of 2012

CP(CO)
RG.22.04.2021(3P/3C)

WEB COPY