



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.NOS.1601 AND 1602 OF 2016

AND

C.M.P.NOS.12071 AND 12072 OF 2016

C.M.A. No.1601 of 2016

The Divisional Manager

The Oriental Insurance Company Limited

Katpadi Road, Vellore

...Appellant / 2nd Respondent

..Vs..

1.Pattusamy, S/o.Kuppusamy

...Respondent / Petitioner

2.Jayabal, S/o.Palanivel

...Respondent / 1st Respondent

C.M.A. No.1602 of 2016

The Divisional Manager

The Oriental Insurance Company Limited

Katpadi Road, Vellore

...Appellant / 2nd Respondent

..Vs..

1.Anandhi, S/o.Kannan

2.Jayabal, S/o.Palanivel

...1 & 2 Respondents / Petitioner
and 1st Respondent

COMMON PRAYER : Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988 against the common Judgment and Decree dated 26.11.2015, made in M.C.O.P.Nos.309 and 310 of 2013 on the file of Motor Accident Claims Tribunal Special Sub Court, Tiruvannamalai.

For Appellant

:

Mr.K.Vinod in both the appeals

For 1st Respondent

:

Mr.B.Jawahar in both the appeals

For 2nd Respondent

:

No appearance in both the appeals

COMMON JUDGMENT

These appeals have been filed by the Insurance Company challenging its liability to pay the compensation under the impugned award dated 26.11.2015, passed by the Motor Accident Claims Tribunal, Special Sub Court, Tiruvannamalai, in MCOP Nos. 309/13 and 310/13.



2. The appellant / Insurance Company has preferred these appeals challenging its liability to pay the compensation to the claimants on the ground that the driver of the insured vehicle was not responsible for the cause of accident. The learned appellant counsel has brought to the notice of this Court that, with regard to the very same accident, which is the subject matter of these appeals, there was another claim in MCOP No.430/2009 by Krishnaveni and Kuppan. He also drew the attention of this Court to the award passed by the Tribunal dated 31.08.2012 in MCOP No.430/09 and would submit that in that award, the insured vehicle was exonerated from any liability.

3. A memo has been filed by the respondents/claimants in these appeals before this court, which has been sent through e-mail, wherein the learned counsel for the respondents/claimants has submitted that an application was filed to set aside the ex-parte award passed in MCOP No.409/2009. This came to be allowed on 14.12.2020.

4. There cannot be conflicting decisions as regards the fixation of liability with regard to the claims made arising out of the very same accident. Hence, in the interest of justice and in order to correctly fix the liability, this Court is of the considered view that the impugned award dated 26.11.2015 passed in MCOP Nos. 309/13 and 310/13 will have to be set aside and the matter should be remitted back to the Special Sub Court for MCOP cases, Thiruvannamalai, for fresh consideration on merits and in accordance with law along with MCOP No.409/2009, which is renumbered as MCOP No.466/2020. Accordingly, the award dated 26.11.2015 passed in MCOP Nos. 309/13 and 310/13 is set aside and the matter is remitted back to the Special Sub Court for MCOP cases, Thiruvannamalai, with a direction to try all the MCOPs, namely, MCOP Nos. 309/13, 310/13 and 466/2020 together and pass a final order in all the three matters within a period of six(6) months from the date of receipt of a copy of this order. The respective parties are also permitted to adduce oral and documentary evidence afresh.

5. With the above observations, the Civil Miscellaneous appeals are disposed of. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

bga



To

1.The Special Sub Court for MCOP cases,
Tiruvannamalai,

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

+2ccs to Mrs.Elveera Ravindran, Advocate, S.R.No.32124, 32125

C.M.A.Nos.1601 and 1602 of 2016
and
C.M.P.Nos.12071 and 12072 of 2016

PVS (CO)
RVM(23/11/2021)