



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2021

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

CMA No.1616 of 2016
CMP.No.12214 of 2016

The Branch Manager,
The United India Insurance Co.Ltd.,
MM Reddy Complex,
Old Bangalore Road,
Hosur Town and Taluk,
Krishnagiri District.

.. Appellant/2nd Respondent

versus

1. K.Seejakumari
2. Mani
3. Susila Transport Pvt Ltd.,
No.9 Maruthi Parking
Gurgoan, Haryana

...1st Respondent/Claimant

4. ICICI Lombord Motor Insurance,
Zenith House, Kesava Rao Khadi Mark,
Mahalakshmi,
Mumbai - 400034.

... 2 to 4 Respondents/1, 3 & 4 Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree passed in MCOP.No.87 of 2014 on 28.01.2016 on the file of the Motor Accident Claims Tribunal, Additional District Judge, Hosur at Krishnagiri.

For Appellant : Mr.J.Chandran

For Respondents : M/s.R.Sree Vidhya for R4.
Not ready in notice - R1 to R3.

JUDGMENT

(This case has been heard through Video Conference)

This appeal has been filed by the insurance company challenging the award dated 28.01.2016 passed by the MACT, Additional District Judge, Hosur at Krishnagiri in MCOP.No.87 of 2014.



2. The appellant/insurance company has challenged the impugned award questioning its liability to pay the compensation to the respondent/claimant on the ground that in respect of three other claims pertaining to the very same accident in MCOP.Nos.98 and 99 of 2010 and MCOP.No.285 of 2011, the 4th respondent/insurance company was alone held liable to pay the compensation, as per the common award passed in MCOP.Nos.98 and 99 of 2010 dated 21.02.2014 and the award passed in MCOP.No.285 of 2011 dated 25.11.2014.

3. The learned counsel for the appellant/insurance company would further submit that the findings of the Tribunal under the aforementioned awards passed in MCOP.Nos.98 and 99 of 2010 and MCOP.No.285 of 2011 has attained finality as no appeal has been filed by the 4th respondent/insurance company, against those awards. He would submit that the vehicle insured with the 4th respondent/insurance company was alone responsible for the cause of accident as held by the Tribunal under the aforementioned award passed by the respective Tribunals in MCOP.Nos.98 and 99 of 2010 and in MCOP.No.285 of 2011.

4. The learned counsel for the 4th respondent/insurance company also would submit on instructions that no appeal has been filed by the 4th respondent as against the awards dated 21.02.2014 and 25.11.2014 passed in MCOP.Nos.98 and 99 of 2010 and in MCOP.No.285 of 2011.

5. There cannot be two different findings given by two different Tribunals. In the case on hand, the Tribunal has fixed the contributory negligence on the part of the driver of the insured vehicle which has been insured with the appellant at 70%, whereas in the cases viz., in MCOP.Nos.98 and 99 of 2010 as well as MCOP.No.285 of 2011, the appellant/insurance company has been totally exonerated from any liability. When no appeal has been filed as against the findings of the Tribunal in MCOP.Nos.98 and 99 of 2010 and MCOP.No.285 of 2011, the said findings hold good for this case also. Hence, the impugned award dated 28.01.2016 passed by the Tribunal in MCOP.No.87 of 2014 as against this appellant has to be set aside, as only the 4th respondent/insurance company is liable to pay the compensation as determined by the Tribunal under the impugned award to the respondent/claimant.

6. For the foregoing reasons, the impugned award dated 28.01.2016 passed by the MACT, Additional District Judge, Hosur at Krishnagiri in MCOP.No.87 of 2014 is set aside as against this appellant alone and the appeal is allowed by directing the 4th respondent/insurance company to deposit the determined compensation amount under the impugned award before the Tribunal within a period of six weeks from the date of receipt of copy of this Order. On such deposit being made, the Tribunal is directed to transfer the award amount directly to the bank account of the first respondent /claimant,



through RTGS, within a period of two weeks therefrom. Necessary Court fee, if any has to be paid by the appellants before receiving the copy of this Judgment.

WEB COPY

7. In the result, the civil miscellaneous appeal is allowed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

tsh

To

The Motor Accident Claims Tribunal,
Additional District Judge, Hosur at Krishnagiri.

+1cc to Mr.J.Chandran, Advocate SR.No.39357

+1cc to M/s.R.Sree Vidhya, Advocate SR.No.39373

CMA No.1616 of 2016

CP(CO)
GMY(29/11/2021)