



C.M.A.No.526 of 2016

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2022

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.No.526 of 2016

Oriental Insurance Co. Ltd.,
No.115, II Floor, Oriental House,
Broadway, Prakasam Salai,
Chennai – 108.

...Appellant

Vs

1.V.R.Hanumantha Rao (Died)

2.B.Senthil

3.V.Susila

4.V.Roopakumar

5.V.H.Prabhakar Rao

... Respondents

(Respondents 3 to 5 brought on record as LR's of the deceased R1 viz.,
V.R.Hanumantha Rao vide Court order dated 08.09.2021 made in
CMP/12645/2021 in CMA/526/2016)



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Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 27.04.2015 made in M.C.O.P.No.754 of 2013 on the file of the Motor Accidents Claims Tribunal, IV Court of Small Causes, Chennai.

For Appellant : Mr.S.Arun Kumar
For Respondent 1: Died
For Respondents : Mr.N.Nagusah
3 to 5

JUDGEMENT

The Insurance Company has filed this appeal on the basis that the claim petition has been filed in respect of the injuries not sustained in a road accident. The appellant Insurance Company would contend that therefore the filing of a claim petition before the Motor Accidents Claims Tribunal is without any basis. The facts in brief are as follows.

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2. The 1st respondent herein who is since deceased and whose legal representatives have been impleaded as respondents 3 to 5 had filed the above claim petition claiming a sum of Rs.3,20,000/- for compensation for the injuries sustained in a road accident. It is case of the petitioner that on 02.03.2012, when he was returning home from work and when he was crossing Strahans Road from north to south and as he neared KM Jewellery shop, the 1st respondent / 2nd respondent herein who was driving his two wheeler in a rash and negligent manner hit the deceased petitioner, who had fallen down and sustained serious injuries. The petitioner had therefore filed the above claim petition.

3. The Insurance Company had taken a defence denying all the allegations contained in the petition as false. The Insurance Company

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would further submit that the injured was himself responsible for the accident as the Out Patient Chit given by the Government Hospital would show that the petitioner had sustained injuries on account of the fall from the stairs. The same has been incorporated in the OP chit. They would further submit that the claim made was rather high.

4. The Tribunal below held negligence on the part of the 1st respondent driver after assessing evidence given by R.W.1 and R.W.2 as well as OP chit, marked as Ex.R.4 and held that the accident as pleaded had taken place and the victim had sustained multiple injuries all over the body. The Tribunal taking into account the evidence of P.W.1, FIR and charge sheet came to the conclusion that the accident had occurred on account of the rash and negligent driving of the 1st respondent driver. Ultimately, the Tribunal arrived at a compensation of Rs.4,80,500/-. Challenging the said award, the Insurance Company has filed C.M.A.No.526 of 2016.

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5. Mr.S.Arun Kumar, learned counsel appearing for the Insurance Company would rely upon the statement made in OP chit, where it is stated that the patient had intimated officials that the police should not be called and that the accident was a result of fall from the stairway, which does not require any investigation. Therefore, the finding that injuries were on account of the accident sustained in a road accident requires re-consideration. With reference to quantum, no serious argument had been advanced on the side of the Insurance Company.

6. The learned counsel appearing for the respondents / petitioners would submit that Ex.P.4 cannot be looked into isolation since the other documents, discharge summary etc., would clearly

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show that the deceased had sustained injuries in a road accident. This statement has not been rebutted by the learned counsel appearing for the Insurance Company except for producing Ex.P.4, the veracity of which is also in question. The learned counsel would therefore submit that the appeal be dismissed.

7. Heard the learned counsels and perused the records.

8. The main contention of the appellant Insurance Company is that the injuries sustained by the deceased was not on account of the road accident but was a self inflicted injury by reason of fall from the stairs. This statement is sought to be proved by producing OP chit given by the Government Hospital. On the reverse of the said OP chit it is stated as follows:

“நான் தானாக கீழே விழுந்ததால் எனக்கு போலீஸ்



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தேசிய நீதிமன்றம்
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9. However, a thumb impression has been affixed to this document, when the deceased was in the habit of signing in English. On considering the evidence of the eye witnesses, as also the FIR, it is clear that the accident has taken place in the manner set out in the claim petition. As regards quantum, a sum of Rs.50,000/- has been awarded towards extra nourishment which is on the higher side. This amount is reduced to a sum of Rs.25,000/-.

10. The award of the Tribunal is re-worked as follows:

<i>Heads</i>	<i>Award of the Tribunal</i>	<i>Award of the High Court</i>
Disability	Rs.1,65,000/-	Rs.1,65,000/-
Pain and suffering	Rs.50,000/-	Rs.50,000/-
Extra nourishment	Rs.50,000/-	Rs.25,000/-
Transport to Hospital	Rs.40,000/-	Rs.40,000/-
Damages to Clothes	Rs.3,000/-	Rs.3,000/-
Attender Charges	Rs.25,000/-	Rs.25,000/-
Medical Expenses	Rs.1,47,500/-	Rs.1,47,500/-



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<i>Heads</i>	<i>Award of the Tribunal</i>	<i>Award of the High Court</i>
Total	Rs.4,80,500/-	Rs.4,55,500/-

11. In the above circumstances, the Civil Miscellaneous Appeal is partly allowed. The Insurance company is directed to deposit the award amount along with interest and costs, less the amount already deposited within a period of six weeks from the date of receipt of a copy of this Judgement, to the credit of M.C.O.P.No.754 of 2013. On such deposit, the legal heirs of the deceased petitioner / respondents 3 to 5 herein are permitted to withdraw the award amount, after adjusting the amount, if any, already withdrawn, by filing necessary application before the Tribunal. Consequently, connected Civil Miscellaneous Petition is closed. No costs.

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Index : Yes/No

Speaking order/non-speaking order

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The Motor Accidents Claims Tribunal,
IV Court of Small Causes,
Chennai.

P.T.ASHA, J.,

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