



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM  
AND  
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

C.M.A.No.2782 of 2019

1. V.Manimozhi
2. Minor V.Manigandan
3. Minor V.Paneerselvam  
(2<sup>nd</sup> and 3<sup>rd</sup> are minors rep. By their  
mother and natural guardian  
and next friend-V.Manimozhi)
4. P.Vijaya
5. K.Parasuraman

... Appellants/Petitioners

Vs.

1. P.Maclodo Sons,  
No.18 B South Raja Street,  
Tuticorin.  
(1<sup>st</sup> respondent exparte before the Trial Court.  
Notice may be dispensed with)
2. I.C.I.C.I. Lombard Motor Insurance Co. Ltd.,  
having its branch office,  
Land Mark Buildings,  
I.C.I.C.I. H.F.C.No.20/B, 2<sup>nd</sup> Floor,  
1<sup>st</sup> Main Road, Gandhi Nagar, Vellore - 6.
3. P. Annandan  
(3<sup>rd</sup> respondent exparte before the Trial Court.  
Notice may be dispensed with)
4. The Oriental Insurance Company Limited,  
Kovilpatti Office, Kovilpatti.
5. Dhanasekar  
(5<sup>th</sup> respondent exparte before the Trial Court.  
Notice may be dispensed with)



6. M.Srinivasan

(6<sup>th</sup> respondent exparte before the Trial Court.  
Notice may be dispensed with)

... Respondents/Respondents

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PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act 1988 against the Judgment and Decree dated 30.01.2019 made in M.C.O.P.No.5 of 2017 on the file of the Motor Accident Claims Tribunal/Additional District Judge (Fast Track Court), Arni.

For Appellants : Mr.P.Satheesh Kumar

For Respondents : R1, R3, R5 & R6 - Exparte  
Mrs.Srividhya for R2  
Mr.M.Krishnamoorthy for R4

## JUDGMENT

[Judgment of the Court was delivered by K.KALYANASUNDARAM, J.]

This appeal arises out of the Judgment and Decree dated 30.01.2019 made in M.C.O.P.No.5 of 2017 on the file of the Motor Accident Claims Tribunal/Additional District Judge (Fast Track Court), Arni, wherein the claim petition filed by the appellants came to be dismissed.

2.The claimants are the legal heirs of the deceased-Venkatesan. It has been categorically averred in the claim petition that the deceased was the owner of a lorry bearing Registration No.TN 69 A 9063 and his brother-Baskaran was driving the lorry on 06.09.2008 at night, from Madhavaram to Othur, via, Bangalore. When they are nearing Thandalam MRF Power House, the vehicle hit against the container lorry bearing Registration No.TN 69 V 0212, which was parked in the road. It appears that during the pendency of the claim petition, the subsequent owner of the container lorry bearing Registration No.TN 69 V 0212 as well as the insurer of the container lorry have been impleaded as party to the claim petition.

3.The claimants have examined P.W.2 and P.W.3 to prove the negligence.

4.After analysing the evidence of the eye witness, the Tribunal had come to the conclusion that the lorry bearing Registration No.TN 69 A 9063 was not driven by the brother of



the deceased, viz., Baskaran, but it was driven by the deceased himself. On such finding the Tribunal was of the view that the claimants are not entitled for the compensation.

5.Challenging the same, the present Civil Miscellaneous Appeal has been filed.

6.The learned counsel for the appellants/claimants vehemently contended that there is a specific averment in the claim petition that the container lorry was parked in the middle of the road, without any signal. However, the Tribunal overlooking the pleading and evidence erred in dismissing the entire claim petition.

7.Per contra, the learned counsel appearing for the 2<sup>nd</sup> respondent/Insurance Company would submit that the claimants have not come to the Court with clean hands and the Tribunal having found that they made false claims, rightly rejected the claim petition and prayed for dismissal of this appeal.

8.Heard the learned counsels appearing for the parties.

9.After perusal of the averments mentioned in the claim petition as well as the evidence of P.W.2 and 3, we are of the considered opinion that a false claim was made before the Tribunal as rightly pointed out by the learned counsel appearing for the respondent. Therefore, the appellants are not entitled for compensation, is to be confirmed.

10.However, it is an admitted fact that the deceased was having personal accident coverage and the claimants are entitled for Rs.two lakhs. Hence, the 2<sup>nd</sup> respondent/Insurance Company is directed to pay Rs.two lakhs along with interest at the rate of 6% per annum from the date of claim petition, till the date of realisation, within a period of six weeks from the date of receipt of a copy of this order.

11.In the result, this Civil Miscellaneous Appeal is partly allowed as indicated above. No costs.

Sd/-  
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

Jer



To

The Motor Accident Claims Tribunal/  
Additional District Judge (Fast Track Court),  
Arni.

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Copy To

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

+1cc to M/s.P.Satheesh Kumar, Advocate, S.R.No.9952

+1cc to M/s.Srividhya, Advocate, S.R.No.10211

C.M.A.No.2782 of 2019

RR(CO)  
RLP(12/05/2022)