



WEB COPY



C.M.A(MD)Nos.1525 and 1526 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 15.11.2022

Pronounced on : 16.12.2022

**CORAM**

THE HONOURABLE MRS.JUSTICE **R.THARANI**

**C.M.A(MD)Nos.1525 and 1526 of 2010**

C.M.A(MD)No.1525 of 2010

M/s. National Insurance Co., Ltd.,  
represented through its Branch Manager,  
4152, Keela Raj Street,  
Pudukkottai.

...Appellant/2nd respondent

Vs

1.Sankar

... 1st respondent / petitioner

2.Selvam

... 2nd Respondent / 1st respondent

**PRAYER :-**

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree dated 18.08.2009 passed in M.C.O.P.No.109 of 2004 on the file of the Sub Court/ MACT, Pudukkottai, by allowing this appeal.

C.M.A(MD)No.1526 of 2010

M/s. National Insurance Co., Ltd.,  
represented through its Branch Manager,  
4152, Keela Raj Street,  
Pudukkottai.

...Appellant/2nd respondent



C.M.A(MD)Nos.1525 and 1526 of 2010

Vs

1.Singaravelu

... 1st respondent / petitioner

2.Selvam

... 2nd Respondent / 1st respondent

**PRAYER :-**

This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree dated 18.08.2009 passed in M.C.O.P.No.9 of 2005 on the file of the Sub Court/ MACT, Pudukkottai, by allowing this appeal.

For Appellant : Ms.P.Malini

For R1 : No appearance

(in both CMAs)

**COMMON JUDGMENT**

C.M.A(MD)No.1525 of 2010 is filed against the order in M.C.O.P.No. 109 of 2004 on the file of the Sub Court/ MACT, Pudukkottai. The appellant herein is the second respondent. The first respondent is the claimant, second respondent is the first respondent in the claim petition.

2.C.M.A(MD)No.1526 of 2010 is filed against the order in M.C.O.P.No.9 of 2005 on the file of the Sub Court / MACT, Pudukkottai. The appellant herein is the second respondent. The first respondent herein is



C.M.A(MD)Nos.1525 and 1526 of 2010

the claimant and the second respondent herein is the first respondent in the claim petition.

3.Brief substance of the claim petition in M.C.O.P.No.109 of 2004 is as follows:

On 19.06.2003 at about 4 p.m., the petitioner in M.C.O.P.No.109 of 2004, Shankar and the petitioner in M.C.O.P.No.9 of 2005, Singaravelu, travelled in a two wheeler bearing registration number TN 55 H 6717 from Musiri to Pudukkottai. Singaravelu drove the vehicle and Sankar travelled as a pillion rider. When the motorcycle was nearing Mookambiga college, a Mahindra van bearing registration number TN 60 Z 0931 driven by its driver in a rash and negligent manner came and dashed against the motorcycle. The rider and the pillion rider sustained injuries and they were admitted in Pudukkottai Government Hospital. The petitioner in M.C.O.P.No.109 of 2004 claimed a sum of Rs.20,00,000/- as compensation. The petitioner in M.C.O.P.No.9 of 2005 claimed a sum of Rs.20,00,000/- as compensation.

4.Brief substance of the counter filed by the second respondent in both the petition is as follows:

The van driver was not responsible for the accident. The vehicle is not



C.M.A(MD)Nos.1525 and 1526 of 2010

involved in the accident. The rider of the two wheeler Singaravelu was not having valid driving licence. Both the rider and the pillion rider fell down from the vehicle on their own fault. The respondent is not liable to pay compensation.

5.Since both the claim petitions arose out of the same accident, a joint trial was conducted and a common judgment was pronounced by the Tribunal. In the joint trial, three(3) witnesses were examined and eight(8) documents were marked on the side of the petitioner. Two witnesses were examined and two documents were marked on the side of the respondent. In M.C.O.P.No. 109 of 2004, the Tribunal has awarded a sum of Rs.3,83,920/- and in M.C.O.P.No.9 of 2005, the Tribunal has awarded a sum of Rs.25,000/- as compensation, both to be paid by the second respondent.

6.Against the awards, the second respondent filed these appeals on the following grounds:

The Tribunal failed to consider that the two wheeler skidded and the rider and the pillion rider fell down while they overtake a vehicle and the first respondent vehicle was not at all involved in the accident. The Tribunal is



C.M.A(MD)Nos.1525 and 1526 of 2010

wrong in fixing the negligence on the van driver. The Tribunal failed to consider that the claimant Sankar failed to file the discharge summary issued by the hospitals. The Tribunal failed to consider that there was no independent witness to examine to prove the accident. The medical expenses are excessive. The award is excessive.

7. On the side of the appellant, it is stated that the vehicle was not at all involved in the accident. The private investigator appointed by the appellant filed an investigation report and the same was marked as Ex.R1. The private investigation report was based on a statement mentioned in the wound certificate of P.W.1. Only based on this statement, the private investigation report was filed and that in the wound certificate, Ex.P3 and Ex.P5, it was stated that while overtaking another vehicle, the motorcycle skidded and the claimants fell down and they sustained injuries. Copy of the FIR was marked as Ex.P1. MVI Report was marked as Ex.P2. The statement in the FIR is contrary to the statement in the wound certificate. The vehicle was inspected by the motor vehicle inspector. The statement in the wound certificate is not a conclusive proof. Hence, it is decided that Ex.R1 is not wholly reliable. On the basis of the evidence of P.W.1 and P.W.2 and on the basis of Ex.P1 and



C.M.A(MD)Nos.1525 and 1526 of 2010

Ex.P2, the Tribunal has fixed the liability on the van driver which is reasonable.

8. C.M.A(MD)No.1525 of 2010:

The claimant is Sankar. On the side of the appellant it is stated that the injured took treatment as inpatient for a period of ten days in Trichy Maruthi Hospital, then he was admitted in Pudukottai Kannan Hospital and he took treatment as inpatient for a period of 12 days. Again he was admitted in Senthil Nursing Home, Madurai and he took treatment for a period of 75 days. The wound certificate was marked as Ex.P3. Considering the period of treatment and considering Ex.P4, medical bills, the Tribunal has awarded a sum of Rs.3,03,917/- towards medical expenses. In Ex.P8, the disability was fixed as 40%. P.W.3 has deposed that the claimant has sustained 40% disability. The Tribunal has fixed the disability at 35% and awarded Rs.2,000/- per percentage of disability. The Tribunal has awarded Rs.5,000/- towards pain and sufferings, Rs.5,000/- towards transport expenses, attendant charges and extra nourishment and the Tribunal has awarded a sum of Rs.3,83,920/- as total compensation for the claimant. Considering the documents and the evidence it is decided that the amount fixed by the



C.M.A(MD)Nos.1525 and 1526 of 2010

Tribunal is reasonable.

WEB COPY

9. C.M.A(MD)No.1526 of 2010:

The wound certificate of the claimant in M.C.O.P.No.9 of 2005, Singaravelu, was marked as Ex.P5. Since the claimant in this appeal, sustained injury, the Tribunal has awarded a sum of Rs.25,000/- as compensation which is reasonable.

10.For the reasons stated above, both the Civil Miscellaneous Appeals are dismissed. No costs.

C.M.A(MD)No.1525 of 2010

(i) The quantum of compensation awarded by the Tribunal is hereby confirmed as Rs.3,83,920/- (Rupees Three Lakhs Eighty Three Thousand Nine Hundred and Twenty only) which shall carry interest at the rate of 7.5% per annum.

(ii) The appellant / insurance company is directed to deposit the entire compensation of Rs.3,83,920/- (if not already deposited) together with interest at the rate of 7.5% per annum from the date of accident till the date of deposit and proportionate costs to the credit of M.C.O.P.No.109 of 2004 on the file of



C.M.A(MD)Nos.1525 and 1526 of 2010

the Motor Accident Claims Tribunal / Subordinate Court, Pudukottai, within a period of eight weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made by the appellant / insurance company, the first respondent / claimant is permitted to withdraw the entire award amount of Rs.3,83,920/- (Rupees Three Lakhs Eighty Three Thousand Nine Hundred and Twenty only) with proportionate interest.

C.M.A(MD)No.1526 of 2010

(i) The quantum of compensation, Rs.25,000/- (Rupees Twenty Five Thousand only) awarded by the Tribunal is hereby confirmed. The award amount shall carry interest at the rate of 7.5% per annum.

(ii) The appellant / insurance company is directed to deposit the entire compensation of Rs.25,000/- (if not already deposited) together with interest at the rate of 7.5% per annum from the date of accident till the date of deposit and proportionate costs to the credit of M.C.O.P.No.9 of 2005 on the file of the Motor Accident Claims Tribunal / Subordinate Court, Pudukottai, within a period of eight weeks from the date of receipt of a copy of this order.



C.M.A(MD)Nos.1525 and 1526 of 2010

(iii) On such deposit being made by the appellant / insurance company, the first respondent / claimant is permitted to withdraw the entire award amount of Rs.25,000/- (Rupees Twenty Five Thousand only) with proportionate interest.

**16.12.2022**

Index: Yes / No

Internet : Yes / No

pnn

To

- 1.The Motor Accident Claims Tribunal / Subordinate Judge, Pudukottai.
- 2.The Record Keeper, Vernacular Records,  
Madurai Bench of Madras High Court, Madurai.



WEB COPY



C.M.A(MD)Nos.1525 and 1526 of 2010

**R. THARANI, J**

pnn

**C.M.A(MD)Nos.1525 and 1526 of 2010**

**16.12.2022**