



C.M.A.(MD)Nos.193 and 194 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 16.06.2022

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THE HONOURABLE MRS. JUSTICE R. THARANI

C.M.A.(MD)No.193 and 194 of 2012

C.M.A.(MD)No.193 of 2012

S.Saravanakumar

.. Appellant/Petitioner

Vs.

1.T.Murugan

2.New India Insurance Company Ltd.,

Balamore Road, Nagercoil,

Represented through

Divisional Manager

3.R.Pitchaiyah

4.The New India Assurance Co., Ltd.,

Kella South Street,

Nagapattinam.

.. Respondents / Respondents

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to allow the Civil Miscellaneous Appeal and to enhance the award amount by modifying the award and decree passed in M.C.O.P.No.471 of 1995, dated 11.10.2006 by the IV Additional Sub Judge, Madurai.



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Nambirajan

.. Appellant/Petitioner

Vs.

1.T.Murugan

2.New India Insurance Company Ltd.,

Balamore Road, Nagercoil,

3.R.Pitchaiyah

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Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to allow the Civil Miscellaneous Appeal and to enhance the award amount by modifying the award and decree passed in M.C.O.P.No.472 of 1995, dated 11.10.2006 by the IV Additional Sub Judge, Madurai.

(In both Appeals)

For Appellant	: No appearance
For Respondent No. 1	: No appearance
For Respondent No.2	: Mr.D.Sivaraman
Respondent No.3	: Dismissed vide order dated 27.03.2013
For Respondent No.4	: No appearance



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COMMON JUDGMENT

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C.M.A.(MD)No. 193 of 2012 is filed against the order, dated 11.10.2006, passed in M.C.O.P.No.471 of 1995, by the IV Additional Sub Judge, Madurai. The appellant is the petitioner and the respondents herein are the respondents in the original claim petition.

2. C.M.A.(MD)No. 193 of 2012 is filed against the order, dated 11.10.2006, passed in M.C.O.P.No.472 of 1995, by the IV Additional Sub Judge, Madurai. The appellant is the petitioner and the respondents herein are the respondents in the original claim petition.

3. Brief substance of the petitions in M.C.O.P.Nos.471 and 472 of 1995 is as follows:-

On 26.03.1993, the petitioner and others travelled in a Ambassador Car, bearing Registration No.TNR-5110 that belonged to the third respondent along the Madurai - Virudhunagar National Highways, at about 12.30 noon, at that time, another vehicle viz., Van, bearing Registration No.TN-74-A-2088 belonged to the first respondent came in a rash and negligent manner and dashed against the car. The accident has happened due to the rash and negligent driving of the drivers of the first



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and third respondents' vehicle. The petitioners sustained injuries and they filed this petitions claiming compensation.

4. Brief substance of the counter filed by the first respondent, in M.C.O.P.Nos.471 and 472 of 1995, is as follows:-

It was the car driver, who was rash and negligent and the car dashed against the Van. Since the accident took place only due to the negligence of the car driver, the first respondent is not liable to pay compensation.

5. Brief substance of the counter filed by the respondents 2 and 4, in M.C.O.P.Nos.471 and 472 of 1995, is as follows:-

The Insurance policy is denied. The respondents 1 and 3 are not the owners of the vehicle and their vehicles were not insured with the second and fourth respondents - the Insurance Company. The age, income, profession, injuries, medical expenses, disability are all denied. The claim is excessive.

6. A joint trial was conducted in M.C.O.P.No.471 of 1995 and M.C.O.P.No. 472 of 1995 and a common judgment was passed. On the side of the claimants, 6 witnesses were examined and 24 documents were marked. On the side of the respondents, no witness was examined and no document was marked. After trial, the Tribunal has awarded a sum of Rs.55,250/- to the claimant in M.C.O.P.No.471 of 1995 and awarded Rs.48,900/- to



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the claimant in M.C.O.P.No.472 of 1995 and has held that on behalf of the respondents 1 and 3, the second respondent was liable to pay compensation. Against the award, the appellants have filed this appeals.

7. When both the appeals are taken up for hearing today, there is no representation on the side of the appellant. The learned counsel for the second respondent is present.

8. A perusal of the records reveals that the third respondent, who was the owner of the car was impleaded as the third respondent in the original claim petition. The appellant failed to pay batta for the third respondent till 10.04.2013. Hence, this Court passed an conditional order, on 27.03.2013. The matter was taken up in the list on 13.06.2022. At the request of the appellant, it was adjourned to 16.06.2022. On 16.06.2022, there was no representation on the side of the appellant. Batta for the third respondent was not yet filed. Already in the conditional order dated 27.03.2013, this Court has specifically mentioned that on failure to comply the condition, the appeals will be dismissed. But, sofar the appellant counsel has not taken any steps to pay batta for the third respondent. This appeals are pending from the year 2012. There is no use in keeping the cases pending any further.



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9. In view of the same, both the appeals are dismissed. No costs. The

Insurance company is directed to deposit the award amount with accrued interest and costs within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited. On such deposit being made, the Tribunal may permit the claimant to withdraw the amount with interest and costs, less any amount, if already withdrawn by them. No costs.

16.06.2022

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Note : In view of the present lock down owing to COVID – 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

- 1.The IV Additional Sub Judge,
Madurai.
- 2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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R. THARANI, J.

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Pre-delivery Judgment made in
C.M.A.(MD)Nos.193 and 194 of 2012

16.06.2022