



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

C.M.P (MD) No.1622 of 2022

in

C.M.AMD) SR.No.29798 of 2015

and

C.M.A (MD) SR.No.29798 of 2015

and

C.M.P (MD) SR.Nos.9137,9138 and 9140 of 2022

C.M.P (MD) No.1622 of 2022 and

C.M.A (MD) SR.No.29798 of 2015

The Branch Manager,
Reliance General Insurance Company Limited,
80 Feet Road,
Anna Nagar,
Madurai.

:Petitioner/Appellant/Second respondent

.vs.

1.Saraswathi
2.Minor Adhisaya Pandi
3.Vanarani :Respondents 1 to 3/Petitioners 1 to 3

(minor second respondent represented
by his mother and natural
guardian, the first respondent herein)

4.Brahmma Devan
5.S.M.Sangaya :Respondents /Ist Respondents/
Respondents 4 and 5/Respondents
1 and 3

PRAYER in C.M.P (MD) No.1622 of 2022: Civil Miscellaneous Appeal filed under Order 4 Rule 9(4) of the A.S.Rules seeking to condone the delay of 1699 days in representing the appeal in C.M.A.S.R.No.29798 of 2015

PRAYER in C.M.A (MD) SR.No.29798 of 2015 : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act praying this Court to set aside the judgment and decree made in M.C.O.P.No.6 of 2011 ,

<https://hdservices.courts.gov.in/hdservices>



dated 20.1.2015, on the file of the Motor Accidents Claims Tribunal, VIth Additional District Court, Madurai.

For Appellant
in both C.M.P and
C.M.A.SR.

:Mr.K.Gokul

For Respondents
in both C.M.P and
C.M.A.SR

:Mr.P.Chandran

COMMON ORDER

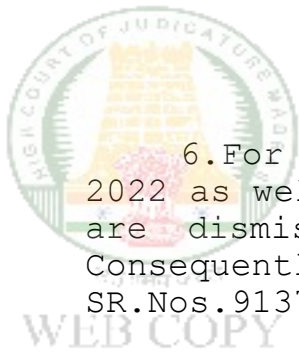
C.M.P(MD)No.1622 of 2022 is filed seeking to condone the delay of 1699 days in representing the above appeal in C.M.A(MD) SR.No.29798 of 2015.

2.C.M.A(MD)SR.No.29798 of 2015 is filed to set aside the judgment and decree made in M.C.O.P.No.6 of 2011, dated 20.1.2015, on the file of the Motor Accidents Claims Tribunal, VIth Additional District Court, Madurai.

3.The above C.M.P has been filed on the ground that the case bundles have been misplaced at the office of the Advocate. The main C.M.A.SR is filed against the award made in M.C.O.P.No. 6 of 2011, dated 20.01.2015, on the file of the Motor Accidents Claims Tribunal, VIth Additional District Court, Madurai and a sum of Rs.11,88,500/- was awarded as compensation with interest. The learned counsel for the appellant-Insurance Company is permitted to make the submissions on the factual position.

4.Based upon the evidence of P.W.1, it is seen that driver of the first respondent vehicle drove the vehicle in a rash and negligent manner, which is insured with the second respondent/Insurance Company, who is the appellant herein. Ex.R2-Copy of the Insurance Policy was marked. At the time of accident, the rider of the two-wheeler was having LMV driving licence, but however, the rider does not have any two-wheeler licence and is only having Learner's licence. Relying upon the decision reported in **2013(2) TN MAC 262**, the Tribunal held that the Insurance Company is liable to pay the award amount at the first instance and then to recover the same from the owner of the vehicle.

5.I find that there is no error in fixing the liability on the appellant Insurance Company and the quantum calculation adopted by the Tribunal is just and reasonable. Hence I find that there is no merit in the contention of the learned counsel for the appellant/Insurance Company and thus the appeal fails. Moreover the award is passed in the year 2015 by the Tribunal. Hence this Court finds no merit in the C.M.P as well as the main appeal at SR stage.



6.For the reasons stated above, both the C.M.P(MD)No.1622 of 2022 as well as the C.M.A(MD)SR.No.29798 of 2015 at unnumbered stage are dismissed. However, there will be no order as to costs. Consequently, Civil Miscellaneous Petitions in C.M.P(MD) SR.Nos.9137,9138 and 9140 of 2022 at SR stage are dismissed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsn

To

- 1.The VIth Additional District Judge
The Motor Accidents Claims Tribunal,
Madurai.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

COMMON ORDER MADE IN
C.M.P(MD)No.1622 of 2022
in
C.M.AMD)SR.No.29798 of 2015
and
C.M.A(MD)SR.No.29798 of 2015
and
C.M.P(MD)SR.Nos.9137,9138 and
9140 of 2022
28.02.2022

nsn(CO)
GC(10.03.2022) 3P 4C