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C.M.A.Nos.1353 of 2016 & 1477 of 2019

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.Nos.1353 of 2016 & 1477 of 2019

and

C.M.P.Nos.10436 of 2016 & 4308 of 2019

United India Insurance Company Ltd.,
24, Whites Road, Chennai – 14,
Branch Office at Poonamallee.

... Appellant in both appeals

Vs.

1.E.Kanika
2.E.Revathy

... Respondents 1 and 2 in
C.M.A.No.1353 of 2016

3.S.Sureshbabu

... 3rd Respondent in C.M.A.No.1353 of
2016 & 2nd Respondent in C.M.A.1477 of 2019

4.S.Charlie

... 1st Respondent in C.M.A.No.1477 of 2019

Prayer in C.M.A.No.1353 of 2016 : Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 14.08.2015 made in M.C.O.P.No.657 of 2012 on the file of the Motor Accidents Claims Tribunal (3rd Additional District Judge), Tiruvallur at Poonamallee.



C.M.A.Nos.1353 of 2016 & 1477 of 2019

Prayer in C.M.A.No.1477 of 2019 : Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree dated 17.11.2015 made in M.C.O.P.No.692 of 2012 on the file of the Motor Accidents Claims Tribunal (2nd Additional District Judge), Poonamallee.

C.M.A.No.1353 of 2016

For Appellant : Mr.D.Bhaskaran

For Respondents : Mr.K.Varadakamaraj [R1 & R2]
No appearance [R3]

C.M.A.No.1477 of 2019

For Appellant : Mr.D.Bhaskaran

For Respondents : Mr.K.Varadakamaraj [R1]

COMMON JUDGMENT

These matters are listed under the caption “For Being Mentioned” at the instance of the Court.

2. It is seen from the records that though the appeals have been dismissed by confirming the award passed by the Tribunal, however, this Court has not fixed the time limit for deposit of the award amounts. Therefore, it is submitted that requisite time limit may be fixed in the



said judgment.

3. This Court perused the judgment dated 13.10.2023, more particularly para-9 and finds that time limit for deposit of the award amounts has not been fixed and, therefore, the same requires to be fixed.

4. Accordingly, para-9 of the order dated 13.10.2023 shall stand replaced with the following paragraph :-

*“9. Accordingly, both the appeals are dismissed and the awards passed by the Tribunal are confirmed. **The appellant/Insurance Company is directed to deposit the respective award amount to the credit of M.C.O.P.Nos.657 and 692 of 2012 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the respective award amount directly to the bank account of the respective claimants through RTGS within a period of two (2) weeks. In view of the common judgment passed in these appeals, this Court is of the view that, no order is necessary in the civil***



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miscellaneous petition in C.M.P.No.18111 of 2021 seeking to adduce additional evidence in the appeal in C.M.A.No.1353 of 2016 by marking the true copy of the charge sheet prepared by Traffic investigation wing, Poonamallee as Ex.A.5 in the above appeal and accordingly, the civil miscellaneous petition is closed. No costs. Consequently, the connected miscellaneous petitions are closed.”

5. All the other observations made in the earlier order dated 13.10.2023 shall remain intact.

6. Registry is directed to carry out the aforesaid corrections and issue fresh order copies to the parties.

07.01.2025

Index : Yes/No
Speaking order : Yes/No
NCC : Yes / No
sp

To
1.The Motor Accidents Claims Tribunal (3rd Additional District Judge),
Poonamallee.
2.The Motor Accidents Claims Tribunal (2nd Additional District Judge),



C.M.A.Nos.1353 of 2016 & 1477 of 2019

Poonamallee.

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Copy to

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



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M.DHANDAPANI, J.,

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C.M.A.Nos.1353 of 2016 & 1477 of 2019

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C.M.A.No.1353 of 2016

For Appellant : Mr.D.Bhaskaran

For Respondents : Mr.K.Varadakamaraj [R1 & R2]
No appearance [R3]

C.M.A.No.1477 of 2019

For Appellant : Mr.D.Bhaskaran

For Respondents : Mr.K.Varadakamaraj [R1]

COMMON JUDGMENT

Both the appeals arise out of a single accident. Aggrieved by the award passed by the Motor Accidents Claims Tribunal, III & II Additional District Judge, Poonamallee, the insurance company has filed the above appeals.

2. For brevity, the appellant in both the appeals is hereinafter



C.M.A.Nos.1353 of 2016 & 1477 of 2019

referred to as insurance company and the respondents 1 and 2 in C.M.A.No.1353 of 2016 and the first respondent in C.M.A.No.1477 of 2019 are hereinafter referred to as claimants and claimant. The third respondent in C.M.A.No.1353 of 2016 is hereinafter referred to as owner of the offending vehicle.

3. On 06.05.2012 at about 15.00 hours, when the deceased Rajkumar was riding the motorcycle bearing Regn.No.TN-20-AP-4633, from west to east, Poonamallee to Bangalore High Road, Nazarathpet, a motorcycle bearing Reg.No.TN-30-BV-8829, which was owned by the first respondent/Suresh Babu and insured with the insurance company, in which one Charlie/claimant was riding as pillion rider, which was driven by its driver in a rash and negligent manner and at that time, one unknown car hit behind the motorcycle in which the said Charlie/claimant was travelling and thereby, the said motorcycle dashed against the deceased motorcycle, in which the deceased sustained fatal injuries and died in the hospital and the said Charlie/claimant sustained grievous injuries all over his body. Thereafter, the legal heirs of the deceased filed a claim petition claiming a sum of Rs.8,00,000/- as



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compensation for the death of the deceased in M.C.O.P.No.657 of 2012 and the claimant/Charlie filed a claim petition claiming a sum of Rs.2,00,000/- as compensation for the injuries sustained by him in the road accident in M.C.O.P.No.692 of 2012.

4. Before the Tribunal, the claimants in M.C.O.P.No.657 of 2012 have examined 2 witnesses viz., P.W.1 and P.W.2 and marked 4 documents viz., Ex.P.1 to Ex.P.4. On the side of the respondents, one witness was examined as R.W.1 and 5 documents were marked viz., Ex.R.1 to Ex.R.5. After adjudication, the Tribunal has awarded a sum of Rs.6,65,000/- under various heads.

4.1. Before the Tribunal, the claimant in M.C.O.P.No.692 of 2012 examined himself as P.W.1 and examined the doctor as P.W.2 and marked 6 documents viz., Ex.P.1 to Ex.P.6. No witnesses were examined nor any documents were marked on the side of the respondents. After adjudication, the Tribunal has awarded a sum of Rs.86,000/- under various heads.



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4.3. Aggrieved by the above awards passed by the Tribunal, the insurance company has filed the above appeals.

5. The learned counsel appearing for the appellant/insurance company submitted that, the accident had happened due to the rash and negligent driving of the deceased and the driver of the unknown car and the driver of the motorcycle insured with the appellant/insurance company was not responsible for the accident. He also submitted that, as per Ex.R.3, the injured claimant was under the influence of alcohol. However, without considering the said aspects, the Tribunal has fastened the entire liability on the appellant/insurance company, which is wholly unsustainable. Accordingly, he prays for allowing the above appeals.

6. Per contra, the learned counsel appearing on behalf of the respondents 1 and 2 in C.M.A.No.1353 of 2016 and 1st respondent in C.M.A.No.1477 of 2019 submitted that, as per Ex.P.1/FIR and charge sheet, the negligence is on the part of the unknown car as well as the motorcycle insured with the appellant/insurance company. Further, he



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submitted that, based on the evidence of P.W.1 and R.W.1, the Tribunal had rightly arrived at a conclusion that, the appellant/insurance company is liable to compensate the claimants, which is wholly sustainable. Accordingly, he prays for dismissal of the appeals.

7. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

8. The factum and manner of the accident is not disputed by the parties. Therefore, this Court is not entering into the said aspect. However, the appellant/insurance company has challenged the liability fastened against them by the Tribunal. P.W.2, who is an eye-witness to the accident had deposed that the accident had happened due to the rash and negligent driving of the motorcycle insured with the appellant/insurance company. In order to disprove the same, the appellant/insurance company has not taken any effective steps to adduce evidence before the Tribunal by examining an eye-witness. In such circumstances, the Tribunal had rightly arrived at the conclusion that the



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accident had happened due to the rash and negligent driving of the motorcycle insured with the appellant/insurance company and fixed the entire liability on the appellant/insurance company, which cannot be found fault with. Therefore, this Court is not inclined to interfere with the awards passed by the Tribunal.

9. Accordingly, both the appeals are dismissed and the awards passed by the Tribunal are confirmed. In view of the common judgment passed in these appeals, this Court is of the view that, no order is necessary in the civil miscellaneous petition in C.M.P.No.18111 of 2021 seeking to adduce additional evidence in the appeal in C.M.A.No.1353 of 2016 by marking the true copy of the charge sheet prepared by Traffic investigation wing, Poonamallee as Ex.A.5 in the above appeal and accordingly, the civil miscellaneous petition is closed. No costs. Consequently, the connected miscellaneous petitions are closed.

13.10.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No



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sp

M.DHANDAPANI, J.,

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To

1.The Motor Accidents Claims Tribunal (3rd Additional District Judge),
Poonamallee.

2.1.The Motor Accidents Claims Tribunal (2nd Additional District
Judge), Poonamallee.

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

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