



C.M.A.No.2033 of 2017

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2033 of 2017

and

C.M.P.No.10909 of 2017

and

C.M.P.Nos.24926, 24927 and 24930 of 2023

M/s.New India Assurance Company Limited,
Represented by its Branch Manager,
Cuddalore.

... Appellant / 2nd Respondent

Vs.

1. Chandra
2. Murugan
3. Jaya
4. Iyyappan
5. Sanpagavalli

... Respondents / Petitioners
1 to 5 1 to 5

6. Mathiyalagan

... 6th Respondent / 1st Respondent

7. V.S.T.Motors Limited,
Represented by its Manager,
Cuddalore.

... 7th Respondent / 3rd Respondent

8. Panneer Selvam



C.M.A.No.2033 of 2017

9. Ajith Kumar

10. Arun Kumar

11. Abinеш Kumar

... Respondents / Proposed Respondents

8 to 11

8 to 11

(Respondents 8 to 11 are impleaded vide order dated 01.11.2023 made in C.M.P.Nos.24926, 24927 and 24930 of 2023 by MDIJ)

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 06.04.2016 made in M.C.O.P.No.464 of 2009 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Villupuram District.

For Appellant : Mr.J.Chandran

For Respondents : Mr.P.Santhosh
for Mr.K.Govi Ganesan
for R1to R4, R8 to R11
R5 died
No appearance for R6 and R7

J U D G M E N T

The appellant / Insurance Company, aggrieved by the quantum of compensation awarded by the Motor Accident Claims Tribunal, Principal District Judge, Villupuram District, in M.C.O.P.No.464 of 2009, dated 06.04.2016, has filed this appeal.



C.M.A.No.2033 of 2017

WEB COPY

2. During the pendency of the appeal, the fifth respondent, viz., Sanpagavalli, who was one of the legal representatives of the deceased Krishnappan died on 03.08.2016. However, the legal representatives were not brought on record in time. C.M.P.No.24926 of 2023 was filed to condone the delay of 2484 days in filing the petition to set aside the abatement caused due to the death of the fifth respondent, C.M.P.No.24927 of 2023 was filed to set aside the abatement caused due to the death of the fifth respondent and C.M.P.No.224930 of 2023 was filed to bring on record the respondents 8 to 11 as legal representative of the deceased fifth respondent and to rank them as respondents 8 to 11 in the present appeal. Having Satisfied with the reasons stated in the affidavit filed in support of the petitions, all the CMPs are ordered and the delay is condoned, abatement is set aside and the legal representatives of the fifth respondent are brought on record as respondents 8 to 11 in the present appeal.

3. It is the case of the claimants that the respondents 1 to 5 and the



C.M.A.No.2033 of 2017

WEB COPY

newly impleaded respondents herein are the legal representatives of the deceased Krishnappan. On 19.03.2007, at about 8.30 p.m., when the deceased Krishnappan was walking on the left side of the road near poondi cross road in Villupuram - Gingee Main Road, at that time, a vehicle bearing Registration No.TN-32-C-5796 driven by its driver in a rash and negligent manner and dashed against the deceased, as a result of which, the deceased sustained grievous injuries and he was admitted in the Government Hospital, Villupuram, where he died. It is under these circumstances, the claimants have filed the claim petition before the Tribunal seeking for compensation. The sixth respondent herein is the owner of the vehicle.

4. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the sixth respondent. Having rendered such a finding, the Tribunal proceeded to determine the compensation payable by the Insurance Company at Rs.5,96,500/-. The



C.M.A.No.2033 of 2017

Tribunal directed the above compensation to be paid with interest at the rate of 7.5% p.a.

5. Questioning the quantum of compensation awarded by the Tribunal, the appellant / Insurance Company has filed the present appeal.

6. Heard the learned counsel for appellant / Insurance Company and the learned counsel for respondents / claimants and the newly impleaded respondents.

7. This Court carefully considered the submissions made on either side and the materials available on record.

8. This Court also carefully went through the award passed by the Tribunal.

9. The learned counsel for the appellant / Insurance Company



C.M.A.No.2033 of 2017

WEB COPY

submitted that before the Tribunal, the Insurance Company has categorically stated that there was no valid insurance policy at the time of the accident. The accident took place on 19.03.2007 whereas the policy was renewed only from 17.04.2007 to 15.04.2008. Hence, the Insurance Company is not liable to pay the compensation.

10. Per contra, learned counsel for respondents / claimants submitted that the Tribunal has assigned proper reasons while awarding the compensation and it does not require the interference of this Court.

11. It is seen that the seventh respondent herein has contested the claim that they have a tie up arrangement with all the Insurance Company and that they have paid a sum of Rs.9,538/- on 26.02.2007 to the Insurance Company towards renewal of the insurance policy. That apart, the Insurance Company has acknowledged the receipt of the amount through letter dated 01.08.2014. Hence, the Insurance Company cannot disown their own policy since the payment towards renewal has been duly paid by the seventh



C.M.A.No.2033 of 2017

WEB COPY

respondent herein on behalf of the sixth respondent's vehicle bearing Registration No.TN-32-C-5796 on 26.02.2007. However, the Insurance Company citing a reason that due to non availability of Print in Genisya system, they have renewed the policy only from 17.04.2007 to 15.04.2008. Hence, the Tribunal was right in coming to the conclusion that the Insurance Company was liable to pay the compensation on the presumption that there was a valid insurance policy on the date of the accident.

12. In the light of the above discussion, finding no merits to interfere with the award dated 06.04.2016 made in M.C.O.P.No.464 of 2009, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected C.M.P.No.10909 of 2017 is closed.

01.11.2023

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

vji



C.M.A.No.2033 of 2017

WEB COPY

To

1. The Motor Accidents Claims Tribunal,
Principal District Judge,
Villupuram District.
2. The Section Officer,
V.R. Section,
High Court, Chennai.



WEB COPY



C.M.A.No.2033 of 2017

M.DHANDAPANI, J.

vji

**C.M.A.No.2033 of 2017
and
C.M.P.No.10909 of 2017**

01.11.2023