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C.M.A.Nos.3848, 3849 and 3866 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.Nos.3848, 3849 and 3866 of 2019
and
C.M.P.Nos.22000, 22006 and 22080 of 2019

C.M.A.Nos.3848, 3849 and 3866 of 2019

The Manager,
United India Insurance Co. Ltd.,
MTPCO, No.38, Anna Salai,
South India Co-op., Buildings,
3rd Floor, Chennai.

... Appellant

Vs.

C.M.A.Nos.3848 of 2019

1. Jagannathan
2. V.R.Senguttuvan
3. T.Venkatesh

... Respondents

C.M.A.Nos.3849 of 2019

1. Prabakaran
2. V.R.Senguttuvan
3. T.Venkatesh

... Respondents

C.M.A.Nos.3866 of 2019

1. P.Velayutham
2. Lakshmi



C.M.A.Nos.3848, 3849 and 3866 of 2019

3. V.R.Senguttuvan

4. T.Venkatesh

... Respondents

Common Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree dated 31.01.2014 made in M.C.O.P.Nos.527, 529 and 530 of 2005 respectively on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Tiruvallur.

C.M.A.Nos.3848 and 3849 of 2019

For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.P.Dinesh Kumar
[R1]
No Appearance [R2 &
R3]

C.M.A.Nos.3866 of 2019

For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.P.Dinesh Kumar
[R1 & R2]
No Appearance [R3 &
R4]

COMMON JUDGEMENT

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



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dismissed by confirming the award passed by the Tribunal, however, this Court has not fixed the time limit for deposit of the award amounts and the award amount has not been apportioned among the claimants. Therefore, it is submitted that requisite time limit may be fixed in the said judgment.

3. This Court perused the judgment dated 18.12.2023, more particularly para-10 and finds that time limit for deposit of the award amounts has not been fixed and the award amounts has not been apportioned among the claimants, therefore, the same requires to be fixed.

4. Accordingly, para-10 of the order dated 18.12.2023 shall stand replaced with the following paragraph :-

“10. Accordingly, for the reasons aforesaid, the appeals stand dismissed by modifying the order passed by the Tribunal in directing payment of compensation by the insurance company and the insurance company is directed to pay the compensation to the



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claimants as awarded by the Tribunal and thereafter recover the same from the said Senguttuvan and Venkatesh in accordance with law. The appellant/Insurance Company is directed to deposit the respective award amount to the credit of M.C.O.P.Nos.527, 529 and 530 of 2005 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. It is made clear that the respective award has to be apportioned as ordered by the Tribunal. No costs. Consequently, connected miscellaneous petitions are closed.

5. All the other observations made in the earlier order dated 18.12.2023 shall remain intact.

6. Registry is directed to carry out the aforesaid corrections and



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issue fresh order copies to the parties.

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Index : Yes/No

Speaking order : Yes/No

NCC : Yes / No

RAP

To

Motor Accidents Claims Tribunal, Subordinate Judge, Tiruvallur.

Copy to

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



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For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.P.Dinesh Kumar
[R1]
No Appearance [R2 &
R3]

C.M.A.Nos.3866 of 2019

For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.P.Dinesh Kumar
[R1 & R2]
No Appearance [R3 &
R4]

COMMON JUDGEMENT

The issue involved in the present appeals are one and the same they are disposed of by way of this common order.

2. It is the case of the respective claimants that on 26.04.2002 at



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about 4:00 a.m. when the injured along with the deceased were travelling in a car bearing registered No.MSQ 4653, the driver of the vehicle, the driver of the car had driven the vehicle in a rash and negligent manner and in order to avoid cattle crossing the road at high speed swirled the vehicle to avoid hitting the cattle and thereby lost control and the car dashed against the tamarind tree. In the said accident, the driver of the car and one of the victim died on the spot while others sustained injuries. Therefore, respective claim petitions have been filed claiming compensation.

3. Before the Tribunal, the claimants examined as P.W.1 to P.W.6 marked Exs.P.1 to Ex.P.28. The respondents examined R.W.1 and R.W.2 and marked Exs. R1 to R7 were examined. After adjudication, the Tribunal awarded a sum of Rs.6,81,000/- in M.C.O.P.No.527 of 2005, Rs.4,94,000/- in M.C.O.P.No.528 of 2005 and Rs.1,93,159/- in M.C.O.P.No.530 of 2005 under various heads the in favour of the claimants. Aggrieved over the same, the appellant / insurance company has preferred the present appeals.



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4. The learned counsel appearing for the appellant / insurance company submits that on the date when the accident had happened, the vehicle was not insured with the appellant and therefore no liability is cast on the appellant to pay the compensation. R.W.1 has clearly spoken about the cancellation of the policy with effect from 10.04.2002 and the Tribunal has not properly adverted to the deposition of R.W.1 and Ex.R7 and had erroneously awarded the compensation which is required to be interfered with.

5. Though the notice was served on respondents 2 and 3 in C.M.A.No.3849 of 2019 and on respondents 3 and 4 in C.M.A.No.3866 of 2019, none appeared on their behalf. Considering the period of pendency of the appeals, they are disposed of based on the materials available on record.

6. Heard the learned counsel appearing for the appellant and the learned counsel for the first respondent in C.M.A.No.3849 of 2019 and the first and second respondents in C.M.A.No.3866 of 2019 and perused the materials placed on record.



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7. The only issue that arises for consideration in the present case is whether the alleged cancellation of policy by the second respondent in C.M.A.Nos.3848 and 3849 of 2010 and third respondent in C.M.A.No.3866 of 2010 namely Senguttuvan would have a bearing on the liability to pay the compensation in respect of the accident which would fall on the third respondent in C.M.A.Nos.3848 and 3849 of 2010 and fourth respondent in C.M.A.No.3866 of 2010 namely Venkatesh.

8. Section 157 of the Motor Vehicles Act, 1988 specifically mandates that upon transfer of ownership of the vehicle to another person the policy of insurance and certificate of insurance shall be deemed to have been transferred in favour of the person to whom the motor vehicle have been sold and further Sub Section 2 therein mandates the transferee shall apply within fourteen days from the date of transfer for making necessary changes with regard to the ownership of the vehicle and the certificate of insurance in favour of the purchaser. When Section 157 of the Motor Vehicles Act, 1988 clearly mandates that there would be a deemed transfer of policy to the purchaser namely the said Venkatesh



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herein, the plea raised by the said Senguttuvan that by letter dated 10.04.2002 he had requested for cancellation of policy and have received a refund of premium cannot be accepted. If at all the said Senguttuvan had sought for such request on the specific ground that he has sold the vehicle, the appellant could not have cancelled the policy but ought to have awarded for the transferee to submit the requisite forms seeking name transfer in respect of the policy.

9. However, the appellant had cancelled the policy on the request of the said Senguttuvan, the erstwhile owner of the vehicle. However, the transfer of insurance policy is deemed to have taken place upon transfer of ownership of vehicle. Such being the case the plea of the said Senguttuvan that he is not liable under the policy cannot be accepted. If at all the appellant had cancelled the policy as alleged by the said Senguttuvan which is deemed to have been transferred in favour of said Venkatesh, the duty is case upon the appellant to pay the compensation to recover the same from said Senguttuvan as the appellant has also violated Section 157 of the Motor Vehicles Act. Therefore, the order passed by the Court below fixing the liability jointly and severally on the insurer and



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the insured namely Senguttuvan herein and the appellant and directed the appellant to pay the compensation cannot be sustained. The said Senguttuvan having cancelled the policy inspite of the sale of the vehicle without the knowledge of said Venkatesh is liable to pay the compensation to the claimants herein.

10. Accordingly, for the reasons aforesaid, the appeals stand dismissed by modifying the order passed by the Tribunal in directing payment of compensation by the insurance company and the insurance company is directed to pay the compensation to the claimants as awarded by the Tribunal and thereafter recover the same from the said Senguttuvan and Venkatesh in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

18.12.2023

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Index : Yes / No

Speaking order / Non speaking order

Neutral Citation Case : Yes / No

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18.12.2023