



C.M.A.(MD).Nos.718 and 719 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)Nos.718 and 719 of 2010

C.M.A(MD) No.718 of 2010:

S.Rajarithnam

... Appellant/Petitioner

-VS-

1. K.Palaniappan

2. The United India Insurance Company Ltd.,
Unit – 3, Kamarajar Salai,
Madurai.

3. The Oriental Insurance Company Ltd.,
910-B, Main Road,
Kovilpatty.

... Respondents 1 to 3/
Respondents 1 to 3

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the fair and decretal order dated 10.01.2007 made in M.C.O.P.No.28 of 2001, on the file of the Motor Accident Claims Tribunal, Sub Court, Kovilpatti.

For Appellant : Mr.A.Srinivasan
for Mr.V.Perumal
For Respondents : Mr.V.Balaji – for R1
: Mr.I.Suthakaran – for R2
: Mr.A.Ilango – for R3



C.M.A.(MD).Nos.718 and 719 of 2010

C.M.A(MD) No.719 of 2010:

Jeyabalan

... Appellant/Petitioner

-VS-

1. K.Palaniappan

2. The United India Insurance Company Ltd.,
Unit – 3, Kamarajar Salai,
Madurai.

3. The Oriental Insurance Company Ltd.,
810-B, Main Road,
Kovilpatty.

... Respondents 1 to 3/
Respondents 1 to 3

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the fair and decretal order dated 10.01.2007 made in M.C.O.P.No.27 of 2001, on the file of the Motor Accident Claims Tribunal, Sub-Court, Kovilpatti.

For Appellant : Mr.A.Srinivasan
for Mr.V.Perumal
For Respondents : Mr.V.Balaji – for R1
: Mr.I.Suthakaran – for R2
: Mr.A.Ilango – for R3

COMMON JUDGMENT

Both the Civil Miscellaneous Appeals have been filed by the claimants challenging the exclusion of a particular period for calculation of interest for the award of compensation.



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2. Two passengers in an Ambassador Car Viz., S.Rajaratninan has filed M.C.O.P.No.271 of 1995 and Jeyabalan filed M.C.O.P.No.415 of 1996 seeking compensation for the injuries sustained by them, due to the rash and negligent driving on the part of the Lorry coming from the opposite direction. Originally, these two claim petitions were filed before the Motor Accident Claims Tribunal/Sub Court, Dharapuram. Thereafter, at the request of the claimants, both the claim petitions were transferred to the Motor Accidents Claims Tribunal/Sub Court, Kovilpatti and renumbered as M.C.O.P.Nos.27 of 2001 and 28 of 2001.

3. While both the claim petitions were pending before the Motor Accidents Claims Tribunal/Sub Court, Kovilpatti, the claimants have filed I.A.Nos.76 of 2003 and 87 of 2003 seeking to amend the claim petitions in order to enhance the compensation as prayed for. The claimant viz., Rajaratninan wanted to enhance the compensation from Rs.3,00,000/- to Rs.5,00,000/- (Rupees Three lakhs to Five Lakhs only). The other claimant viz., Jeyabalan wanted to enhance the compensation from Rs.2,00,000/- to Rs.5,00,000/- (Rupees Two Lakhs to Five Lakhs only). Both the amendment applications were dismissed by the Tribunal. Challenging the same, the claimants have filed C.R.P(MD) Nos.2175 and 2176 of 2003.



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4. The Hon'ble Court, after considering the prayer of the claimants on merits, ultimately, allowed the amendment applications permitting the claimants to enhance the compensation in the claim petitions. However, it was pointed out by the learned Counsel appearing for the Insurance Company that the claim petitions were pending before the Motor Accidents Claims Tribunal/ Sub Court, Kovilpatti from 2001 and the amendment applications have been filed only in the year 2003. Therefore, this Court was pleased to direct the Tribunal to exclude the said period for calculating interest, in case, the Tribunal passes an award on the amended claim.

5. Based upon the orders of this Court in C.R.P(MD) Nos.2175 and 2176 of 2003, dated 08.02.2006 amendments were carried out in the claim petitions on 14.07.2006. Thereafter, the Tribunal proceeded to hear the matter on merits. The award of Rs.1,40,000/- (Rupees One Lakh Forty Thousand only) was passed in M.C.O.P.No.28 of 2001, in which, Mr.Rajarathinam is the claimant. An award of Rs.1,90,000/- (Rupees One Lakh Ninety Thousand only) was passed in M.C.O.P.No.27 of 2001, in which, Jeyabalan is the claimant. Therefore, it is clear that the award of the Tribunal was less than the amount prayed in the original claim petitions and no award was passed over



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and above the claim made in the original claim petitions. Therefore, the question of pressing into service, the order of this Court in C.R.P(MD) Nos. 2175 and 2176 of 2003 does not arise.

6. The claimants have filed the claim petitions on 08.04.1993 and they would be entitled to receive interest from the said date at the rate of 7.5%. However, the Tribunal had relied upon the order of this Court and has excluded the period between 2001 to 2003. That apart, the Tribunal has also excluded the period during which the claim petitions were pending before the Motor Accidents Claims Tribunal/ Sub Court, Dharapuram which is clearly not sustainable.

7. In view of the above said facts, the quantum of award passed by the Tribunal in both the claim petitions are confirmed. However, the award of the Tribunal with regard to the interest is hereby modified to the effect that in both the claim petitions, the claimants shall be entitled to receive interest at the rate of 7.5% from 08.04.1993 viz., from the date on which they filed the claim petitions before the Motor Accidents Claims Tribunal/Sub Court, Dharapuram, till the date of realization.



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8. In view of the above said deliberations, both the Civil Miscellaneous Appeals stand allowed to the extent as stated above. There shall be no order as to costs.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Motor Accidents Claims Tribunal cum Sub Court,
Dharapuram.
2. The Motor Accidents Claims Tribunal cum Sub Court,
Kovilpatti.
3. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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