



C.M.A.(MD).Nos.309 and 310 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.06.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISHKUMAR

C.M.A.(MD).Nos.309 and 310 of 2023

and

C.M.P.(MD).Nos.3879 and 2884 of 2023

C.M.A.(MD).No.309 of 2023

The Branch Manager,
United Indian Insurance Company Limited,
No.457, Victoria Extension Road,
Thoothukudi.

... Appellant

Vs.

1.Kousalyadevi
2.Minor Jeevi
3.Periyasamy
4.Kaliyammal
5.Amutha

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the decree and judgment dated 26.03.2019 made in M.C.O.P.No.830 of 2015 on the file of the Additional District Judge, Pudukottai.

For Appellant : Mr.A.Ilango

For Respondents : M/s.A.Banumathy



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C.M.A.(MD).No.310 of 2023

United Indian Insurance Company Limited,
78, Kamarajar Salai,
Vauvery Nagar,
Kulithalai,
Karur District.

... Appellant

Vs.

1.Kousalyadevi
2.Minor Jeyashree
3.Periyasamy
4.Kaliyammal
5.Amutha

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the decree and judgment dated 06.09.2018 made in M.C.O.P.No.29 of 2016 on the file of the Tribunal Judge, Kulithalai, Karur District.

For Appellant : Mr.A.Ilango

For Respondents : M/s.A.Banumathy

J U D G M E N T

These two appeals have been filed challenging the award passed by two different Tribunals. C.M.A.(MD).No.309 of 2023 arising out of the M.C.O.P.No.830 of 2015, on the file of Additional District Judge, Pudukottai. C.M.A.(MD).No.310 of 2023 arising out of the M.C.O.P.No.



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29 of 2016 on the file of the Sub Judge, Kulithalai, Karur District.

2. It is relevant to note that the accident was admittedly took place on 18.09.2015, when the deceased was travelling in a car, the car dashed against one tamarind tree. As a result, the deceased Karthikeyan and the driver Bala Karthick died and two others sustained injuries. In both the claim petitions, the wife, minor daughter and parents of the deceased Karthikeyan were arrayed as parties. Originally, the claim application in M.C.O.P.No.830 of 2015 was filed before the Additional District Judge, Pudukottai. After filing the said application, once again another application has been filed by the same persons before the Chief Judicial Magistrate, Kulithalai. Though the application in M.C.O.P.No.29 of 2016 was filed in a latter time, it was decided earlier on 06.09.2018, wherein a sum of Rs.12,04,000/- was awarded as compensation, whereas the earlier application in M.C.O.P.No.830 of 2015 filed in the year 2015 was disposed by the Additional District Judge, Pudukottai on 26.03.2019, awarding a sum of Rs.16,22,000/- as compensation. Challenging the same, both the appeals have been filed mainly on the ground that there is



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a duplication of claim and both the awards have to be set aside.

3. It is the contention of the learned counsel for the respondents that the claimants are being illiterate only on instruction of the lawyers, the two claim petitions have been filed and the claimants' signature alone obtained by some of the lawyers, which resulted in filing of these two petitions. Hence, the contention that since the said aspects not disputed, any one of the award passed by both the Tribunal may be sustained.

4. In the light of the above submissions, now the point for consideration in these appeals is whether the two awards passed for the same accident can be sustained in the eye of law?

5. Admittedly, the accident is not disputed by the Insurance Company and the liability also not disputed. The only challenge made in these appeals is since there was a duplication of award, both the awards cannot be sustained in the eye of law.



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6. The earlier application in M.C.O.P.No.830 of 2015, a sum of Rs. 60,00,000/- was claimed as compensation, whereas, later application in M.C.O.P.No.29 of 2016, only a sum of Rs. 20,00,000/- claimed as compensation. However, the Tribunal, on analysing the entire evidence, has awarded only a sum of Rs.12,04,000/-. The earlier application was disposed later by the Additional District Judge, Pudukottai and awarded a sum of Rs.16,22,000/-. It is relevant to note that in M.C.O.P.No.29 of 2016, the Tribunal, after analysing all the witnesses produced by the petitioners viz., P.Ws.1 to 4 and R.W.1 produced on the side of the respondents, arrived a compensation of Rs.12,04,000/-, whereas only on the basis of two witnesses viz., P.Ws.1 and 2, a sum of Rs.16,22,000/- was awarded.

7. In such a view of the matter, this Court is of the view that when the petitioners have filed two different claim applications before the two different Tribunals, they cannot take a different stand in both the petitions. Having produced sufficient evidence which has been analysed and award came to be passed first. This Court is of the view that the



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award passed in M.C.O.P.No.29 of 2016 has to be sustained, as the liability and the other aspects have not been disputed by the Insurance Company. However, the award passed in M.C.O.P.No.830 of 2015, which is the subject matter of appeal in C.M.A.(MD).No.309 of 2013 is set aside.

8. In the result, the Civil Miscellaneous Appeal in C.M.A.(MD).No.309 of 2013 filed by the Insurance Company is allowed and the awarded passed by the Tribunal for a sum of Rs.16,22,000/- is set aside. However, the C.M.A.No.310 of 2023 filed challenging the award passed in M.C.O.P.No.29 of 2016 on the file of Sub Judge, Kulithalai, Karur District is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

23.06.2023

NCC:Yes/No

Index:Yes/No

akv

To



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- 1.The Additional District Judge,
Pudukottai.
- 2.The Tribunal Judge,
Kulithalai,
Karur District.
- 3.The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai.

N.SATHISHKUMAR, J.



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