



C.M.A.Nos.1524, 1527 & 1535 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 20.06.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

C.M.A.Nos.1524, 1527 & 1535 of 2023
and C.M.P.Nos.15522, 15547 & 15621 of 2023

C.M.A.No.1524 of 2023:

M/s.Bajaj Aliance General Insurance Co. Ltd.,
GVR Complex 6-A, 2 Floor, Lawsons Road,
Cantonment, Trichy – 1.

.. Appellant

Vs.

1.Ganapathy

2.K.R.V.Ganesan,
Prop. Aswin Sweets,
Opposite to New Bus Stand,
Perambalur.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 14.02.2023 made in M.C.O.P.No.1232 of 2016 on the file of the Motor Accident Claims Tribunal, Sub Court, Perambalur.

C.M.A.No.1527 of 2023:

M/s.Bajaj Aliance General Insurance Co. Ltd.,
GVR Complex 6-A, 2 Floor, Lawsons Road,
Cantonment, Trichy – 1.

.. Appellant



C.M.A.Nos.1524, 1527 & 1535 of 2023

Vs.

1.Murugesan

2.K.R.V.Ganesan,
Prop. Aswin Sweets,
Opposite to New Bus Stand,
Perambalur.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 14.02.2023 made in M.C.O.P.No.1246 of 2016 on the file of the Motor Accident Claims Tribunal, Sub Court, Perambalur.

C.M.A.No.1535 of 2023:

M/s.Bajaj Aliance General Insurance Co. Ltd.,
GVR Complex 6-A, 2 Floor, Lawsons Road,
Cantonment, Trichy – 1.

.. Appellant

Vs.

1.Beeman

2.K.R.V.Ganesan,
Prop. Aswin Sweets,
Opposite to New Bus Stand,
Perambalur.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree dated 14.02.2023 made in M.C.O.P.No.1233 of 2016 on the file of the Motor Accident Claims Tribunal, Sub Court, Perambalur.



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(In all cases):

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For Appellant : Ms.R.Sree Vidhya

For R1 : Mr.T.Gopinath

For R2 : No appearance

COMMON JUDGMENT

The Insurance Company has filed these appeals against the common award passed by the Motor Accident Claims Tribunal, Sub Court, Perambalur, in M.C.O.P.Nos.1232, 1246 & 1233 of 2016 dated 14.02.2023.

2.The case of the claimants is that on 27.03.2016 they were standing near Aswin Sweet Company and were interacting with each other and at about 07.30 AM, the driver of the offending vehicle was reversing the car in a rash and negligent manner and as a result, all the claimants were hit and they sustained serious injuries all over their body. An FIR was registered in Crime No.298 of 2016 against the driver of the car which was owned by the 2nd respondent herein. It is under these circumstances, the claim petition came to be filed by the three claimants seeking for payment of compensation.

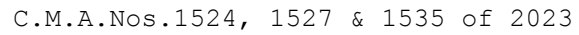


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3.The Tribunal on considering the facts and circumstances of the case and on appreciation of the oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the car belonging to the 2nd respondent herein. After rendering such a finding, the Tribunal fixed a total compensation of Rs.3,55,980/- in M.C.O.P.No.1246 of 2016, Rs.4,23,880/- in M.C.O.P.No.1232 of 2016 and Rs.27,000/- in M.C.O.P.No.1233 of 2016.

4.The compensation amount was directed to be paid with interest at the rate of 7.5% per annum.

5.The Insurance Company aggrieved by the award passed by the Tribunal has filed these appeals mainly on the ground that the accident had not happened in a public place and it had only happened inside the company premises and therefore, the primary requirement under Section 147 of the Motor Vehicles Act, 1988, has not been fulfilled in the instant case.



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

9. The Tribunal on appreciation of the evidence of P.W.1 to P.W.3 and also the evidence of R.W.1 & R.W.2, came to a conclusion that the accident had taken place outside the company premises and the same is a public place and therefore, the claim made by the claimants is maintainable.

10. This Court has carefully gone through the evidence of P.W.1, P.W.2 & P.W.3. Even though these witnesses have stated during the chief examination as if the accident had taken place outside the gate of the company premises, during the cross examination, they have admitted that the accident was caused by the Manager of the company and they



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were employed in the same company and they also admitted that they were talking inside the company premises within the compound and at that time, the accident had taken place.

11.It is also relevant to take note of the evidence of R.W.1, who was the police officer, who had conducted the investigation in this case in Crime No.298 of 2016. He had also prepared a rough sketch which was marked as Ex.R1. His evidence read along with rough sketch clearly shows that the claimants were the employees of the hotel and the accident was caused by the Manager of the hotel and the accident had taken place within the premises.

12.The cumulative reading of the evidence available on record and the other materials placed before the Court shows that the incident had taken place within the premises when the claimants were talking / interacting and the Manager of the company was reversing the car and he had hit the claimants. In order to escape the liability, they were attempting to project as if the accident happened outside the premises and whereas there is clinching materials to show that the accident had happened inside the premises.



WEB COPY 13.If the accident had taken place within the company / hotel premises, the *sine qua non* to maintain the claim petition is not satisfied namely, the accident has not taken place in a public place.

14.In the light of the above discussion, the liability in this case cannot be fastened against the Insurance Company. However, the compensation that has been fixed by the Tribunal is liable to be paid by the owner of the vehicle, namely the 2nd respondent in these appeals along with interest fixed by the Tribunal.

15.The 2nd respondent is directed to deposit the entire compensation awarded along with interest within a period of six (6) weeks from the date of receipt of a copy of this common judgment.

16.The compensation awarded by the Tribunal in M.C.O.P.No.1232 of 2016 at Rs.4,23,880/- is confirmed. The 2nd respondent is directed to deposit the award amount together with interest at 7.5% per annum from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of this judgment.



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Any amount that has been deposited by the appellant along with accrued interest shall be permitted to be withdrawn by the appellant / Insurance Company. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

17.The compensation awarded by the Tribunal in M.C.O.P.No.1246 of 2016 at Rs.3,55,980/- is confirmed. The 2nd respondent is directed to deposit the award amount together with interest at 7.5% per annum from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of this judgment. Any amount that has been deposited by the appellant along with accrued interest shall be permitted to be withdrawn by the appellant / Insurance Company. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

18.The compensation awarded by the Tribunal in M.C.O.P.No.1233 of 2016 at Rs.27,000/- is confirmed. The 2nd respondent is directed to deposit the award amount together with interest at 7.5% per annum from the date of claim petition till the date of deposit within a period of six weeks from the date of receipt of this judgment.



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Any amount that has been deposited by the appellant along with accrued interest shall be permitted to be withdrawn by the appellant / Insurance Company. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

19.In the result, C.M.A.Nos.1524, 1527 & 1535 of 2023 are allowed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

20.06.2024

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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1.The Subordinate Judge,
Motor Accident Claims Tribunal,
Sub Court,
Perambalur.

2.The Section Officer,
VR Section,
Madras High Court,
Chennai.



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N.ANAND VENKATESH, J.

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