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C.M.A.Nos.3158 of 2021 and 1 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.3158 of 2021 and 1 of 2022

And

C.M.P.No.19 of 2022

1.Komalatha

2.T.Manimekalai

3.T.Mohanraj ... Appellants in C.M.A.3158/2021

The New India Assurance Company Ltd.,
2nd Floor, Sethu Krishna Trade Centre,
133/31-1, Trichy Main Road,
Gugai, Salem – 636 006. ... Appellant in C.M.A.1/2022

Vs.

1.Senthil

2.Thangamani

3.The New India Assurance Co. Ltd.,
2nd Floor, Sethu Krishna Trade Centre,
133/31-1, Trichy Main Road,
Gugai, Salem – 636 006. ... Respondents in C.M.A.3158/2021

1. Komalatha

2.T.Manimekalai

3.T.Mohanraj



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4.Senthil

5.Thangamani

... Respondents in C.M.A.1/2022

Prayer in C.M.A.No.3158 of 2021:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, enhancing the compensation awarded in the judgment and decree dated 01.09.2021 passed in M.C.O.P.No.475 of 2019 on the file of the Special District Judge, MCOP Tribunal at Salem.

Prayer in C.M.A.No.1 of 2022:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the order dated 01.09.2021 in M.C.O.P.No.475 of 2019 on the file of the Motor Accidents Claims Tribunal, Special District Court, Salem.

For Appellants : Mr.G.Naresh Kumar
in C.M.A.No.3158 of 2021

Mr.S.Dhakshnamoorthy
in C.M.A.No.1 of 2022

For Respondents : R1 – No Appearance
Mr.R.Ezhilarasan for R2
Mr.S.Dhakshnamoorthy for R3
in C.M.A.No.3158 of 2021

Mr.G.Naresh Kumar for R1 to R3
R4 – No Appearance
Mr.R.Ezhilarasan for R5
in C.M.A.No.1 of 2022



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COMMON JUDGMENT

These civil miscellaneous appeals have been filed against the judgment and decree dated 01.09.2021 in M.C.O.P.No.475 of 2019 passed by the Motor Accident Claims Tribunal, Special District Court, Salem.

2.Since the issue involved in these civil miscellaneous appeals are interrelated, they are heard together and disposed of by way of a common judgment.

3.The petitioners before the Motor Accident Claims Tribunal are the appellants in C.M.A.No.3158 of 2021 (hereinafter referred to as 'claimants'). The third respondent before the Motor Accident Claims Tribunal is the appellant in C.M.A.No.1 of 2022 (hereinafter referred to as 'Insurance Company').

4.The learned counsel appearing for the claimants submitted that on 06.10.2018 at about 9.35 a.m., the deceased Manikandan was riding the motorcycle bearing Registration No.TN 54 M 3409 on East to



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West Veeranam Main Road near Muniappan Koil. At that time, an Auto

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bearing Registration No.TN 30 H 8938 driven by its driver in a rash and negligent manner came from behind the motorcycle and dashed the motorcycle, due to which, the deceased lost his life. Thereafter, the wife, mother and brother of the deceased filed claim petition claiming compensation of Rs.50 Lakhs and the Tribunal after adjudication awarded a sum of Rs.15,65,000/- as compensation to the claimants along with interest at 7.5% p.a. from the date of petition till the date of realization with proportionate costs and directed the owner of the Auto and the Insurance Company to jointly or severally deposit the amount.

5.The learned counsel appearing for the claimants further submitted that the amount awarded by the Tribunal under various heads are very very meagre and hence, the appellants are entitled for enhancement in compensation.

6.The learned counsel appearing for the Insurance Company submitted that the owner of the Auto created fake policy inorder to obtain pecuniary advantage from the Insurance Company, thereby,



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subsequently the Insurance Company has lodged criminal complaint

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for taking suitable action as against the person who created fake insurance policy in order to obtain pecuniary advantage.

7. Heard the learned counsel appearing for the Insurance Company as well as the learned counsel appearing for the claimants and perused the materials available on record.

8. The issue raised by the learned counsel appearing for the Insurance Company has to be proved before the Tribunal. Hence, this Court is inclined to set aside the impugned judgment and decree and remand the matter back to the Tribunal.

9. Accordingly, the judgment and decree dated 01.09.2021 passed in M.C.O.P.No.475 of 2019 by the Motor Accident Claims Tribunal, Special District Court, Salem, is set aside and the matter is remitted back to the Motor Accidents Claims Tribunal, Special District Court, Salem, for fresh adjudication. The Motor Accidents Claims Tribunal, Special District Court, Salem, is directed to first decide the issue with regard to the genuineness of the policy as to whether the



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policy is a genuine policy or fake policy and thereafter provide opportunity to the Insurance Company, claimants, owner of the auto and dispose of M.C.O.P.No.475 of 2019, as expeditiously as possible.

10.The civil miscellaneous appeals are disposed of on the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

17.12.2024

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
Special District Court, Salem.

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And

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