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CMA.No.2457 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

C.M.A.Nos.508 & 1450 of 2024

C.M.A.No.508 of 2024

1. M.Ammu
2. S.Yamunadevi
3. Priyadharshni
4. M.Divya

... Appellants

vs.

1. B.Bharathan
2. Reliance General Insurance Company Limited,
Reliance House, No.6, Haddows Road,
Nungambakkam,
Chennai - 600 034.

... Respondents

C.M.A.No.1450 of 2024

B.Bharathan

... Appellant

vs.

1. Reliance General Insurance Company Limited,
Reliance House, No.6, Haddows Road,
Nungambakkam,
Chennai - 600 034.
2. M.Ammu
3. S.Yamunadevi
4. Priyadharshni
5. M.Divya

... Respondents

Common Prayer: Civil Miscellaneous Appeals filed under Section 173 of



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the Motor Vehicles Act, 1988, against the Award, dated 09.12.2019 in M.C.O.P.6287/2018 on the file of the Motor Accident Claims Tribunal, Chief Judge, Court of Small Causes, Chennai.

in C.M.A.No.508 of 2024

For Appellants : Mr.Amar Dineshbhai Pandiya

For R1 : Mr.V.R.Anna Gandhi

For R2 : Mr.P.Suresh Srinivasan

in C.M.A.No.1450 of 2024

For Appellant : Mr.V.R.Anna Gandhi

For R1 : Mr.P.Suresh Srinivasan

For R2 to R5 : Mr.Amar Dineshbhai Pandiya

COMMON JUDGMENT

Challenging the Award, dated 09.12.2019 passed by the Motor Accident Claims Tribunal, Chennai in M.C.O.P.6287/2018, the present appeals in C.M.A.Nos.508 and 1450 of 2024 are filed by the claimants and the owner of the vehicle respectively.

2. While the claimants have challenged the quantum of compensation awarded by the Tribunal, the owner of the van bearing Registration number TN01 T 5683, had challenged the 'Pay and Recover' ordered by the Tribunal.

3. Heard Mr.Amar Dineshbhai Pandiya, learned counsel



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appearing for the claimants, Mr.V.R.Anna Gandhi, learned counsel appearing for the owner of the vehicle and Mr.P.Suresh Srinivasan, learned counsel appearing for the Reliance General Insurance Company Limited.

4. Mr.V.R.Anna Gandhi, learned counsel appearing for the owner of the van contended that the owner of the vehicle filed a copy of the driving licence and a copy of the R.C. book before this Court in C.M.P.No.14371/2024 and the said petition was allowed by this Court on 19.08.2024. He further contended that since the vehicle is less than 7,500kg and the driver of the vehicle also had a valid driving licence on the date of accident, 'Pay and Recover' ordered by the Tribunal is liable to be set aside.

5. In the Tribunal, the owner of the vehicle did not contest the claim petition and was set *exparte*. He should have filed these documents before the Tribunal and subjected himself for cross examination. However, in the facts and circumstances, the order passed by the Tribunal is set aside and the case is remitted back to the same Tribunal to consider



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the claim petition afresh on merits and in accordance with law after giving sufficient opportunities to the parties to let in evidence.

6. In the result,

- i. The Civil Miscellaneous Appeals are disposed off. No costs.
- ii. The Award, dated 09.12.2019 in M.C.O.P.6287/2018 on the file of the Motor Accident Claims Tribunal / Chief Judge, Court of Small Causes, Chennai is set aside.
- iii. M.C.O.P.6287/2018 is remitted back to the Motor Accidents Claims Tribunal / Chief Judge, Court of Small Causes, Chennai to consider the two documents such as driving licence and R.C. book and pass appropriate orders on merits and in accordance with law after affording opportunities to the parties concerned to adduce evidence.
- iv. Since the accident took place in the year 2018, the



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Motor Accidents Claims Tribunal / Chief Judge, Court
of Small Causes, Chennai is directed to dispose off the
claim petition within a period of three months from the
date of receipt of a copy of this order.

03.09.2024

Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes / No
vum

To

- 1.The Motor Accidents Claims Tribunal
/ Chief Judge, Court of Small Causes,
Chennai.
2. The Section Officer, VR Section,
Madras High Court, Chennai.

R.HEMALATHA, J.

vum



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