



C.M.A.Nos.1329 and 1330 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

C.M.A.Nos.1329 and 1330 of 2020

1. Ramayee
2. Karuppayee
3. Senthil
4. Jayalakshmi ... Appellants in C.M.A.No.1329 of 2020

1. Deivanai
2. Mani
3. Velaiyammal
4. Selvi
5. Paravathi ... Appellants in C.M.A.No.1330 of 2020

Vs.

1. Muthu Gounder (died)
2. National Insurance Company Ltd.,
No.163, Nattar Colony,
Attur Post, Salem District.
3. Pavayee
4. Rajendran
5. Chinthamani ... Respondents in both C.M.A's
(R3 to R5 brought on record as Lrs of the deceased R1 viz.K.Muthu Gounder vide Court order dated 05/02/2020 made in C.M.P.Nos.8843, 8847, 8849, 8788, 8789 & 8790 of 2019 in C.M.A.Sr.Nos.80488 & 80508 of 2011)

Common Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the award dated 24.02.2010



C.M.A.Nos.1329 and 1330 of 2020

made in M.C.O.P.Nos.1124 and 1125 of 2008 on the file of the Motor Accident Claims Tribunal (Principal District Judge), Salem.

For Appellant : Mr.V.R.Rajasekaran

For Respondents : Mr.D.Bhaskaran for R2
R1 – Died
R3 to R5 – No appearance

COMMON JUDGMENT

The above appeals have been filed against the award dated 24.02.2010 made in M.C.O.P.Nos.1124 and 1125 of 2008 on the file of the Motor Accident Claims Tribunal (Principal District Judge), Salem.

2. It is the case of the appellants / claimants that, on 20.03.2005 at about 22:30 hours, when the deceased in respective appeals namely Raju and Alagappan along with some others were travelling in a lorry bearing Regn.No.TDJ 3975 as owners of the goods, in order to sell the turmeric cultivated from their lands, at that time, the driver of said lorry had driven the it in a rash and negligent manner, due to which the said lorry was capsized and the deceased in respective appeals succumbed to death. Therefore, the claimants in M.C.O.P.Nos.1124 and 1125 of 2008 who are



C.M.A.Nos.1329 and 1330 of 2020

the dependents of the deceased have filed the respective claim petitions claiming a sum of Rs.10,00,000/- towards compensation for the death of the deceased in respective appeals.

3. Before the Tribunal, the claimants in respective M.C.O.P's have examined P.W.1 to P.W.4 and marked Exhibits A.1 to Ex.A.18. On the side of the second respondent / insurer of the lorry, they examined R.W.1 and R.W.2 and marked Exhibits B1 and B2. After adjudication, the Tribunal awarded a sum of Rs.4,69,500/- as compensation to the claimants in respective M.C.O.P's in which the second respondent was directed to pay a sum of Rs.1,92,500/- to the claimants and to recover the remaining amount from the owner of the lorry / first respondent. Challenging the same, the respective appellants / claimants has preferred the present appeals.

4. The learned counsel appearing for the appellants / claimants submitted that, though the deceased persons travelled as owners of the goods, the Tribunal has awarded only a sum of Rs.1,92,500/- out of Rs.4,69,500/- to be payable by second respondent / insurance company,



C.M.A.Nos.1329 and 1330 of 2020

on the ground that the policy does not cover more than one owner of the goods which is *per se* unsustainable. He further submitted that as per Section 147 of the Motor Vehicles Act, 1988 after amendment w.e.f.14.11.1994, the owners or authorized representatives of the goods being carried in the goods vehicle covered under third party insurance are entitled to claim compensation under a valid insurance policy. However, without considering the said fact, the Tribunal has erroneously limited the liability of the second respondent only to the extent of Rs.1,92,500/- against the total award of Rs.4,69,500/- in respective M.C.O.P's by fixing the liability to satisfy the balance award amount on the first respondent / owner of the lorry, which is *per se* unsustainable. Accordingly, he prayed for passing appropriate orders.

5. Per contra the learned counsel for the second respondent / insurer of the lorry submits that the policy of the insurance covers only the owner of the goods and does not cover more than one owner of the goods. He further submits that at the time of accident, more than 5 persons travelled in the aforesaid lorry as gratuitous passengers for whom the second respondent is not liable to pay the compensation and



C.M.A.Nos.1329 and 1330 of 2020

the Tribunal upon appreciating the oral and documentary evidence, has limited the liability of the second respondent only to the extent of Rs.1,92,500/- which is perfectly in order and the same does not require any interference.

6. Heard the learned counsel appearing for the appellants and the learned counsel for the second respondent and perused the materials available on record.

7. The factum and manner of the accident is not disputed by the parties and the respective claimants have not raised any issue on the aspect of negligence and quantum of compensation awarded and therefore, this Court is not venturing into the same. Admittedly the accident happened on 20.03.2005. On a perusal of the records, reveals that the above said accident had happened solely due to the driver of the lorry, due to which the respective deceased lost their lives. The issue arises in the present appeals is that whether the insurance policy covers the owners of the goods or representatives of the owners of the goods carried in the lorry ?



C.M.A.Nos.1329 and 1330 of 2020

WEB COPY

8. The main plank of contention of the learned counsel for the second respondent / insurance company is that the owners of the goods or representatives of the goods are not entitled to get compensation as per the policy conditions. On a perusal of the provisions prescribed under Section 147 of the Motor Vehicles Act, 1988 after amendment w.e.f.14.11.1994, it is evident that the owners or authorized representatives of the goods being carried in the goods vehicle covered under third party insurance are entitled to claim compensation under a valid insurance policy. However, without appreciating the said facts, the Tribunal had erroneously limited the liability of the second respondent only to the extent of Rs.1,92,500/- against the total award of Rs.4,69,500/- in respective M.C.O.P's by fixing the liability on the first respondent / owner of the lorry on the ground that the policy does not cover more than one owner of the goods vehicle, which is *per se* unsustainable. Therefore, the second respondent is liable to pay the entire compensation to the claimants in respective appeals.



C.M.A.Nos.1329 and 1330 of 2020

WEB COPY

13. Accordingly, the appeals are partly allowed and the impugned award dated 25.02.2010 passed in M.C.O.P.Nos.1124 and 1125 of 2008 of the Tribunal is modified. The second respondent / insurance company is directed to deposit the entire compensation of Rs.4,69,500/- each, to the credit of MCOP.Nos. 1124 and 1125 of 2008 respectively along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, less, the amount, if any already deposited, within a period of four (4) weeks from the date of receipt of a copy of this judgment.

14. On such deposit being made, the Tribunal is directed to transfer the said amount directly to the bank account of the appellants / respective claimants in respective claim petitions through RTGS within a period of two (2) weeks thereafter. The wives of the respective deceased are entitled to apportion 40% of the compensation amount and the sons and daughters of the respective deceased in respective appeals are



C.M.A.Nos.1329 and 1330 of 2020

WEB COPY

entitled to apportion the remaining amount equally. It is made clear that the respective appellants / claimants are not entitled for any interest for the default period if any. There shall be no order as to costs in the present appeal.

19.11.2024

Index : Yes / No
Speaking order / Non-speaking order
Netrual Citation Case : Yes / No
rap

To

1. Motor Accident Claims Tribunal (Principal District Judge), Salem.
- 2.The Section Officer, V.R.Section, High Court, Madras.



WEB COPY



C.M.A.Nos.1329 and 1330 of 2020

M.DHANDAPANI, J.

rap

C.M.A.Nos.1329 and 1330 of 2020

19.11.2024