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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.1092, 1096, 1176 and 1465 of 2019
and CMP Nos.3060, 3257, 3070 and 4071 of 2019

CMA No.1092 of 2019

The Branch Manager,
Royal Sundaram Alliance Insurance Co. Ltd.,
D.B.Plaza, 3rd Floor, 47, Whites Road,
Chennai – 14

..Appellant/2nd respondent

versus

1. Dr.D.Ramya

..respondent /Petitioner

2. Kumarasamy

.. respondent /1st respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in MCOP No.567 of 2012 dated 12.04.2018 on the file of the Motor Accident Claims Tribunal (III Additional District Court), Kallakurichi.

For Appellant : Mr.K.Vinod

CMA No.1096 of 2019

The Branch Manager,
Royal Sundaram Alliance Insurance Co. Ltd.,
D.B.Plaza, 3rd Floor, 47, Whites Road,
Chennai – 14

..Appellant/2nd respondent



versus

1. Thirugnanasambandam

..respondent /Petitioner

2. Kumarasamy

.. respondent /1st respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in MCOP No.565 of 2012 dated 12.04.2018 on the file of the Motor Accident Claims Tribunal (III Additional District Court), Kallakurichi.

For Appellant : Mr.K.Vinod

CMA No.1465 of 2019

The Branch Manager,
Royal Sundaram Alliance Insurance Co. Ltd.,
D.B.Plaza, 3rd Floor, 47, Whites Road,
Chennai – 14

..Appellant/2nd respondent

versus

1. Shanthy

..respondent /Petitioner

2. Kumarasamy

.. respondent /1st respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in MCOP No.563 of 2012 dated 12.04.2018 on the file of the Motor Accident Claims Tribunal (III Additional District Court), Kallakurichi.

For Appellant : Mr.K.Vinod

CMA No.1176 of 2019

The Branch Manager,
Royal Sundaram Alliance Insurance Co. Ltd.,
D.B.Plaza, 3rd Floor, 47, Whites Road,



Chennai – 14

..Appellant/2nd respondent

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versus

1. Subhashini

2. Ashwath Kumar .. respondents /Petitioners

[R2 is declared as Major and his next Friend

Guardian R1 Subhashni is discharged from

Guardianship of R-2 vide Court order dated

14.11.2024 made in CMPNos.21400 and 21379 of 2024

in CMA Nos.1082 and 1176 of 2019 by MDIJ]

3. Kumarasamy

..Respondent / 1st respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in MCOP No.562 of 2012 dated 12.04.2018 on the file of the Motor Accident Claims Tribunal (III Additional District Court), Kallakurichi.

For Appellant : Mr.K.Vinod

COMMON JUDGMENT

These appeals have been filed by the Insurance Company seeking to quash the judgment and decree in MCOP Nos.562, 563, 565 and 567 of 2012 dated 12.04.2018 on the file of the Motor Accident Claims Tribunal (III Additional District Court), Kallakurichi.

2. It is the case of the claimants that on 12.12.2010 at about 12.00

p.m. an Indica car bearing Registration No.TN 09 BA 1770, driven by



the driver, who is the tort-feaser and a claimant in MCOP No.564/2012 insured with the appellant herein, driven the vehicle from Ravuthanallur Temple to Kallakurichi on the way Thiruvannamalai to Kallakurichi Road, at Mamandal Village, opposite to Priyan Workshop, at that time, one person who crossed the road suddenly, thus, the driver of the car lost his control and dashed against the tamarind tree. Due to the accident, two persons died including the driver of the car and four persons were injured. Thereby, the claimants filed separate claim petition before the Motor Accidents Claims Tribunal claiming compensation.

3. Before the Tribunal, during trial, in order to prove the case, on the side of the claimants, six witnesses were examined viz., PW1 to PW6 and 70 documents viz., Exs.P1 to P70 were marked. On the side of the respondents, one witness was examined and one document was marked. The Tribunal, considering the oral and documentary evidence, allowed the petitions in part and awarded respective compensation to the claimants. Aggrieved by the said common award, the appellant/Insurance company has filed these appeals questioning its liability and quantum.

4. The learned counsel for the appellant/insurance company



submitted that though the Tribunal has awarded a sum of Rs.10,00,000/- in MCOP No.562/2012 for the death of one Mahathi, aged about 8 months at the time of the accident, which is highly excessive. The decision of the Hon'ble Apex has been awarded a sum of Rs.2,60,000/- for the death of the girl who was aged about 12 years. Without considering the said decision, the Tribunal has awarded compensation for the death of the infant, which is not sustainable.

5. The learned counsel for the appellant further submitted that there was clear violation of policy conditions that at that time of the accident more than permitted number of passengers were travelled in the vehicle. Therefore, this Court may permit the appellant to recover the award amount from the owner of the vehicle.

6. The learned counsel for the appellant submitted that the accident had happened due to the accident of the driver of the car. Therefore, liability fixed on the appellant is at fault. The compensation awarded to the injured are highly excessive, which needs interference. Without considering the entire facts, the Tribunal has awarded compensation to all the claimants, which is erroneous.



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7. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing for the appellant and perused the materials available on record. Though the name of the respondents have been printed in the cause list, however, no one is appeared on their behalf. Considering the pendency of these appeals, this Court is inclined to dispose the same.

8. The factum of the accident is not disputed by the parties. The Insurance company has filed the batch of appeals questioning the quantum and its liability.

9. Admittedly, the deceased Sivakumar was driving the car along with his family members. While he was driving, one unknown person suddenly crossed the road, due to which, the driver lost his control and dashed against the tamarind tree. Due to which, two persons died, and four persons sustained injuries. Since the deceased became a tort-feaser, however, compensation was awarded by the Tribunal. Today, for not effecting the service, CMA. Nos.1082 and 1100 of 2019 are adjourned.



10. The other persons are occupant of the car and as per the policy, their claim petitions were covered. Hence, the liability fixed on the appellant is confirmed.

11. The only issue that arises for consideration is whether the quantum of compensation awarded by the Tribunal is reasonable or not.

12. In respect of MCOP. No.562 of 2019, the age of the deceased is 8 months old girl. Further the Hon'ble Apex Court rendered the judgment in the year 2014 for the accident occurred in the year 1992 and awarded fixed compensation of Rs.5,00,000/-. However, in the present case on hand, the eight months old infant died due to the accident in the year 2010 and the said lumpsum amount cannot be equated for the accident occurred in the year 1992. Therefore, the Tribunal has rightly dealt with the matter and awarded compensation for the death of the minor child, which is perfectly in order and the same does not warrant any interference by this Court.

13. In respect of MCOP. No.563 of 2019 is concerned, the medical board assessed the disability at 50% permanent disability. The claimant



was undergone surgeries also. Therefore, the Tribunal has awarded Rs.3000/- per 1% disability, hence, Rs.1,50,000/- was awarded under the disability which is just and reasonable. The other heads awarded by the Tribunal are also just and proper which needs no interference.

14. In respect of MCOP. No.565 of 2019 is concerned, the medical board assessed the disability at 30% permanent disability. The claimant was undergone surgeries also. Therefore, the Tribunal has awarded Rs.3000/- per 1% disability, hence, Rs.90,000/- was awarded under the disability which is just and reasonable. The other heads awarded by the Tribunal are also just and proper which needs no interference.

15. In respect of MCOP. No.567/2019 is concerned, the medical board assessed at 10% disability. The claimant sustained injuries over her face which is grievous in nature. Therefore, the Tribunal has awarded Rs.3000/- per 1% disability, hence, Rs.30,000/- was awarded under the disability which is just and reasonable. The other heads awarded by the Tribunal are also just and proper which needs no interference.

16. In view of the above discussion, C.M.A.Nos.1092, 1096, 1176



and 1465 of 2019 are dismissed. The compensation awarded by the Tribunal in respect of the above appeals are hereby confirmed. The appellant is directed to deposit the compensation as awarded by the Tribunal, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs. Consequently, the connected miscellaneous petition is closed.

22.11.2024

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To

Motor Accident Claims Tribunal
(III Additional District Court),
Kallakurichi.



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M.DHANDAPANI.,J.

rli

C.M.A.Nos.1092, 1096, 1176
and 1465 of 2019

22.11.2024