



C.M.A(MD)No.156 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 23.01.2024

CORAM

THE HON'BLE MR.JUSTICE S.SRIMATHY

C.M.A(MD)No.156 of 2021

The New India Assurance Company Limited,
Through its General Manager,
480, Sekkalai Road,
Karaikudi Nagar,
Sivagangai District.

... Appellant

Vs.

1. Rajeswari

2. Gandhi

3. The Project Director cum
Deputy General Manager,
National Highways Department,
Project Implementation Section.
No.1, Subramaniapuram 3rd street,
Karaikudi Nagar,
Sivagangai District.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgment and Decree, dated 25.07.2019 passed in MCOP No.66 of 2014 on the file of the Motor Accident Claims Tribunal (Sub Court), Devakottai.



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For Appellant : Mr.I.Robert Chandrakumar

For Respondents : Mr.R.Jenifer Bibin, for R-1 & R-2

Mr.S.Krishna Kumar, for
Arul Vadivel Associates, for rR-3

JUDGEMENT

The Civil Miscellaneous Appeal is filed by the Insurance Company against the Judgment and Decree, dated 25.07.2019 passed by the Motor Accident Claims Tribunal (Sub Court), Devakottai, in MCOP No.66 of 2014.

2. The claimants are parents of the deceased. The deceased namely Jeyaraman, while driving the car bearing Registration No.TN-63-V-2598 in National Highway, in order to avoid to hit the Cow, had turned his car and died on the spot in the accident. The deceased is the only legal heir to the claimants.

3. The contention of the appellant is that since the accident was committed by the owner of the vehicle, at the most the same may be considered under personal accident claim and the maximum amount fixed would be allowed for the parents of the deceased. While this plea



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was raised before the Tribunal, the National Highway authorities were included as one of the respondents, thereafter the Tribunal has passed an order and directed the Insurance Company and the Highway authorities to pay compensation. Aggrieved over the same, the Insurance Company is before this Court.

4. The contention of the Insurance Company is that since it is a personal accident claim, the Insurance Company is liable to pay compensation under personal accident claim, but the Tribunal has fixed erroneous liability on the Insurance Company. The Learned Counsel appearing for the appellant further submitted any claim under personal accident claim, then claimant ought to submit separate application and on such application the insurance company would pay the amount. Since the claimant had not submitted such claim, hence the insurance company is not liable to pay interest.

5. Admittedly, whenever the owner of the vehicle is committing any accident then he is entitled to personal claim and not claim as awarded by the Tribunal and the same is held in favour of the



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insurance company. As far as the interest portion is concerned, this Court is not inclined to accept the contention of the Insurance Company. When the insurance company had received the notice from the Tribunal, the insurance company would have come to the conclusion that the claimants are entitled to claim only under personal accident claim. Then the insurance company ought to have discharged their liability and paid the said amount either to the claimants or deposited in any interest accruing deposit or deposited before the Tribunal. But till now the Insurance Company has not deposited the personal claim amount to the deceased. In such circumstances, interest ought to be calculated.

6. For the reasons stated above, this Court is setting aside the Judgment and Decree, dated 25.07.2019 passed by the Motor Accident Claims Tribunal (Sub Court), Devakottai, in MCOP No.66 of 2014. The Insurance Company is liable to pay the personal claim liability of Rs.2 Lakhs to the deceased. However, interest shall be calculated from the date of filing of the claim petition, until the date of realisation with 7.5%. On such deposit, the claimants are permitted to withdraw the same.



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7. Accordingly, this Civil Miscellaneous Appeal is partly

allowed as stated supra. No costs.

23.01.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

KSA

Note : Issue a copy of order today, i.e., on 21.02.2024

To

1. The Motor Accident Claims Tribunal (Sub Court),
Devakottai.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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Order made in
C.M.A(MD)No.156 of 2021

23.01.2024