



*C.M.A(MD)No.352 of 2015*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **23.07.2024**

CORAM

**THE HON'BLE MRS.JUSTICE S.SRIMATHY**

**C.M.A(MD)No.352 of 2015**

Katheeja Beevi (Died)

2.Kajah Mohideen

3.Hyder Ali

4.Beema

5.Jaseela

... Appellants

*(Appellants 2 to 5 are brought on record as LRs of the deceased sole appellant vide Court order, dated 03.01.2022 made in C.M.P(MD)Nos.7573 and 7575 of 2021 in C.M.A(MD)No.352 of 2015)*

Vs.

1.Murugan

2.Kaleel

3.The Branch Manager,  
National Insurance Company Limited,  
No.112, North Car Street,  
Nagercoil,  
Kanyakumari District.

... Respondents

**PRAYER:** Civil Miscellaneous Appeal is filed under Section 173 of the



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Motor Vehicles Act, 1988, to modify the award and decretal order, dated 21.10.2011 made in M.C.O.P.No.14 of 1999 on the file of the Motor Accident Claims Tribunal, Subordinate Judge, Padmanabhapuram and grant enhanced amount of compensation and pass such further or other orders as this Court.

For Appellant : M/s.J.Anandhavalli

For R-1 & R-2 : No appearance

For R-3 : Mr.S.Srinivasa Raghavan

### **JUDGMENT**

The claimant has preferred the civil miscellaneous appeal.

2.It is the case of the injury. Pending Civil Miscellaneous Appeal, the sole appellant died and his legal heirs were impleaded as parties. The contention of the victim is that the Tribunal has relied on Exhibit R.6 and rejected the claim of the victim.

3. The learned Counsel appearing for the 3<sup>rd</sup> respondent submitted that for the same accident, two more claim petitions were filed, against which the Insurance Company has preferred an appeal. Three



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claim petitions were filed. Two claim petitions were allowed and in the present claim petition alone, the Tribunal has rejected the claim on the ground that Exhibit R.6 policy was cancelled. Against the order passed in the two earlier petitions, civil miscellaneous appeals were filed before this Court in C.M.A.(MD)Nos.100 of 2006 and 556 of 2012, wherein this Court has held when the policy is accepted in one case, there is no reason to reject the same in other cases.

4. Therefore, following the same judgment, this Court is of the considered opinion that the Tribunal has failed to consider that the policy is applicable to all persons. There cannot be any discrimination by accepting in one case and declining in other cases. Therefore, the impugned order is set aside by following the judgments rendered in C.M.A.(MD)Nos.100 of 2006 and 556 of 2012, dated 26.04.2012.

5. The Tribunal has fixed Rs.1,83,535/- as compensation but the liability is fixed on owner of the vehicle. However, this Court has held that there is an insurance policy covering the incident. Therefore, the Insurance Company is liable to pay the compensation.



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6. The Insurance Company is directed to deposit Rs.1,83,535/- with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of claims Tribunal, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the same with accrued interests and costs, less the amount already withdrawn by him, if any, by filing appropriate application before the Tribunal.

7. With the above said observation, the Civil Miscellaneous Appeal stands allowed. No costs.

**23.07.2024**

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

To

1.The Motor Accident Claims Tribunal,  
Subordinate Judge, Padmanabhapuram.

2.The Section Officer,  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.



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**S.SRIMATHY, J.**

BTR

**Judgment made in**  
**C.M.A(MD)No.352 of 2015**



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