



WEB COPY



C.M.A.Nos.1005 and 3209 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.1005 and 3209 of 2019

and

C.M.P.Nos.2820 and 23359 of 2019

and

C.M.P.No.23929 of 2024

C.M.A.No.1005 of 2019:

The Divisional Manager,
Shriram General Insurance Co. Ltd.,
II Floor, City Centre,
No.66, Thirumalai Pillai Road,
Near Vani Mahal, T.Nagar, Chennai-17.

...Appellant

Vs.

1.R.Saranya
2.T.Ramesh
3.G.Ramalingam

...Respondents

C.M.A.No.3209 of 2019:

1.R.Saranya

...Appellant

Vs.

1.T.Ramesh



C.M.A.Nos.1005 and 3209 of 2019

2.Shriram General Insurance Co. Ltd.,
2nd Floor, City Center,
66, Thirumalaipillai Road,
Near VaniMahal, T.Nagar,
Chennai-600 017.

3.Ramalingam

...Respondents

COMMON PRAYER: Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988, against the decree and judgment dated 17.02.2017 made in M.C.O.P.No.2851 of 2014 on the file of the Motor Accident Claims Tribunal, Principal District Court, Cuddalore.

In C.M.A.No.1005 of 2019:

For Appellant : Mr.S.Dhakshnamoorthy

For Respondents : Mrs.Ramya V.Rao for R1
R2 & R3 Notice Dispensed With vide
endorsement in the bundle
dated 04.12.2024

In C.M.A.No.3209 of 2019:

For Appellant : Mrs.Ramya V.Rao

For Respondents : Mr.S.Dhakshnamoorthy for R2
R1 & R3 Notice Dispensed With vide
endorsement in the bundle



WEB COPY



C.M.A.Nos.1005 and 3209 of 2019

dated 04.12.2024

COMMON JUDGMENT

The appellant / Insurance Company has preferred this appeal solely on the ground that the marriage of the deceased and the 1st respondent / wife was dissolved vide divorce O.P., in H.M.O.P.No.55 of 2009 dated 27.01.2009 on the file of Sub-Court, Neyveli. However, the claims Tribunal arrived at a conclusion and passed award in favour of the 1st respondent even after the divorce was granted in the said H.M.O.P.

2. For enhancement of compensation, the claimant has also filed the appeal.

3. However the fact remains though the claimant claiming compensation even after passing orders in H.M.O.P.No.55 of 2009 dated 27.01.2009, they are lived together as husband and wife, though aborted three times, no child was blessed. Thereby the Tribunal



C.M.A.Nos.1005 and 3209 of 2019

WEB COPY

arrived at a conclusion that the 1st respondent as wife of the deceased and passed award which need not be interfered with.

4. However, the learned counsel for the appellant/Insurance Company raised a peculiar question that the divorce was granted by Court in terms of Section 13(1) of Hindu Marriage Act, vide order dated 27.01.2009, on the file of Sub-Court, Neyveli, even thereafter the 1st respondent lived as wife of the deceased husband is not sustainable. The 1st respondent produced several materials before the Tribunal but not before this Court. Therefore, there must be a proper adjudication to that effect. Accordingly, he prays for to set aside the order passed by the Tribunal.

5. Heard the learned counsel for the appellant and the learned counsel for the respondents.

6. This Court has carefully considered the submissions made by



C.M.A.Nos.1005 and 3209 of 2019

WEB COPY

the learned counsel on either side and perused the materials available on record.

7. The factum and manner of the accident is not disputed by the parties and therefore, this Court is not venturing into the same.

8. C.M.A.No.1005 of 2019 was filed by the Insurance Company and C.M.A.No.3209 of 2019 was filed by the claimant for enhancement. Since the appeals arises for the same accident, disposed of by a common order.

9. The issue arises in these appeals that the 1st respondent in C.M.A.No.1005 of 2019 is the appellant in C.M.A.No.3209 of 2019 is the wife of the deceased Raman after the divorce was granted in H.M.O.P.No.55 of 2009 dated 27.01.2009. Admittedly the marriage of the deceased with the 1st respondent ended in divorce in terms of Section 13(1) of Hindu Marriage Act in H.M.O.P.No.55 of 2009 dated 27.01.2009 is pending on the file of Sub-Court, Neyveli. Though the 1st



C.M.A.Nos.1005 and 3209 of 2019

WEB COPY

respondent in C.M.A.No.1005 of 2019 is the appellant in C.M.A.No.3209 of 2019 even after their divorce they continued their relationship as husband and wife and lived together, the same has to be decided by the Tribunal through proper evidence and marking the documents, they cannot be decided in these appeals. Hence, the award passed by the Tribunal is hereby set aside and these matters are remitted back to the Trial Court for retrial to ascertain whether the 1st respondent continues relationship with her husband as wife after divorce granted in H.M.O.P.No.55 of 2009 dated 27.01.2009 and the Trial Court is also directed to decide such aspect including dependency and after providing opportunity to the Insurance Company and the claimant, and conclude the same within a period of six months from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petitions are closed.

07.01.2025

ssn

NCC : Yes/No

Index : Yes/No

Speaking Order : Yes/No



C.M.A.Nos.1005 and 3209 of 2019

WEB COPY

To:

1. The Motor Accident Claims Tribunal,
Principal District Court, Cuddalore.
2. The Section Officer,
V.R. Section, High Court, Madras.

M.DHANDAPANI, J.,

ssn

C.M.A.Nos.1005 and 3209 of 2019
and
C.M.P.Nos.2820 and 23359 of 2019
and



WEB COPY



C.M.A.Nos.1005 and 3209 of 2019

C.M.P.No.23929 of 2024

07.01.2025