

(1999) 08 MAD CK 0047

In the Madras High Court

Case No : C.M.A. No's. 944 of 1991 and 308 of 1993 and C.M.P. No's. 12876, 14257 and 14258 of 1999

Madras Metropolitan Water Supply and Sewerage Board

APPELLANT

Vs

Sridhar and Others

RESPONDENT

Date of Decision : 24-08-1999

Acts Referred:

Limitation Act, 1963 — Section 5
Penal Code, 1860 (IPC) — Section 279, 337

Citation : (2001) ACJ 732 : (2000) 1 MLJ 72

Hon'ble Judges : P. Thangavel, J

Bench : Single Bench

Advocate : S. Ramalingam, for A. Arumugam and P. Manavalan, for the Appellant; A. Manavalan, K.S. Narasimhan and R. Ravichandran, for the Respondent

Judgement

P. Thangavel, J.—These are all appeals against the order dated 21.8.1991 in M.A.C.T. O.P. No. 1 of 1988 on the file of the II Judge,

Court of Small Causes, Madras (Motor Accidents Claims Tribunal).

2. The facts that are necessary for deciding the appeals under consideration before this court are as follows:

The petitioner, who was mason by profession was riding in his cycle from north to south on the left side of Johny John Khan Road. The driver of

the tractor bearing registration No. TNO 7229, and trailer bearing registration No. TCX 1638 was driving rashly and negligently from south to

north suddenly overtaking the van bearing registration No. MDA 8561 and dashed against the petitioner and caused the crushing injury to the right

leg of the petitioner. The petitioner, who was hospitalised has undergone surgery and his right leg was amputated. The respondent No. 1 as owner

of the vehicle, respondent Nos. 2 and 3 as insurers of the vehicle and respondent No. 4, who was in actual control and possession of the vehicle,

are liable to compensate the loss sustained by the petitioner. The petitioner has claimed Rs. 500 towards transport charges, Rs. 2,300 for extra

nourishment charges, Rs. 2,40,000 towards the loss of earnings, Rs. 25,000 towards pain and suffering, Rs. 50,000 towards permanent disability

and Rs. 50,000 towards loss of earning power, totalling to Rs. 3,68,000 but restricted his claim to Rs. 2,00,000.

3. The respondent No. 1 resisted the claim made by the claimant on the ground that the respondent No. 1 is not liable to pay any compensation

and in the event of any liability, the compensation has to be paid only by the insurers of the tractor and trailer, viz., respondent Nos. 2 and 3.

4. The respondent No. 2 denied the liability on the ground that the claim made by the petitioner is not maintainable and in any event, the tractor and

trailer were not insured with the respondent No. 2 but only with the respondent No. 3.

5. The respondent No. 3 resisted the suit claim on the ground that the respondent No. 1 was permitted to use the tractor and trailer only for

agricultural purpose under the policy and not for transporting water on hire by the respondent No. 4 and that, therefore, the respondent No. 3 as

insurer is not liable to the suit claim.

6. The respondent No. 4 resisted the suit claim on the ground that the vehicle said to have been involved in the accident was not under the control

and possession of this respondent, that this respondent is neither the owner of the vehicle nor the employer of the driver, who is alleged to have

caused the accident and that, therefore, this respondent cannot be held responsible on the alleged ground of vicarious liability. It is also pleaded

that there is no privity of contract between the owner of the vehicle and this respondent, that the said vehicle was let out on hire to one independent

contractor Parasurama Lorry Service, Pudupet Village, Pannur Post, Chengai Anna District, that Manisekaran, proprietor of the above said lorry

service let out the vehicle for transporting water for the public use due to the acute shortage of water consequent to the failure of monsoon, that this

respondent is not liable to pay any compensation towards any accident involved by the vehicle and that thereby the owner of the vehicle alone is

liable along with the insurance company. In view of the said facts, this respondent sought for dismissal of the claim made against this respondent.

7. The Tribunal after considering the material evidence placed before it, has held that the driver of the tractor, who was working under the

respondent No. 1 who is the owner of the tractor and trailer, was negligent and there was no negligence on the part of the petitioner for such an

accident that petitioner is entitled to a sum of Rs. 1,000 for transport charges and extra nourishment charges as against Rs. 500 and Rs. 2,300

totalling to Rs. 2,800 claimed by the claimant, Rs. 48,000 towards loss of earnings and loss of earning power as against the claim of Rs. 2,40,000,

Rs. 200 and Rs. 50,000, Rs. 5,000 towards pain and suffering as against the claim of Rs. 25,000, Rs. 20,000 towards permanent disability as

against the claim of Rs. 50,000 totalling to sum of Rs. 74,000 as against the claim of Rs. 3,68,000 restricted to Rs. 2,00,000.

8. The Tribunal has also held that the respondent No. 1 as owner of the tractor and trailer and respondent No. 4 as person in possession and

control of the vehicle, are liable to pay the compensation to the petitioner and not the respondent Nos. 2 and 3, the insurers. Aggrieved at the

order dated 21.8.1991 in M.A.C.T. O.P. No. 1 of 1988 on the file of the Motor Accidents Claims Tribunal (Court of Small Causes), Madras, the

respondent No. 4 as appellant has come forward with the appeal in C.M.A. No. 944 of 1991 while the claimant as appellant has come forward

with the appeal in C.M.A. No. 308 of 1993 on the file of this court.

9. The petitioner/appellant in C.M.A. No. 944 of 1991 has filed a petition u/s 5 of the Limitation Act to condone the delay of 326 days in filing the

application to set aside the order of dismissal dated 1.9.1998 against the respondent No. 4 and to set aside the order dated 1.9.1998 in C.M.A.

No. 944 of 1991. Notice was given to the counsel appearing for the respondent No. 4. The counsel for the applicant and other respondents were

heard. The submission made by the counsel for the petitioner would disclose that Mr. A. Venkatesan and Mr. M.K. Hidayatullah appeared for the

applicant/appellant at the time of filing of the appeal and later on the counsel appearing for the applicant/ appellant was changed and the matter was

entrusted to Mr. R. Nagarajan, who died subsequent to the entrustment of the work.

10. It is also submitted that the present counsel Mr. A. Arumugam now represented by Mr. Ramalingam has been entrusted with the work of appearing in this appeal and after the appearance of the said counsel, the applicant came to know about the dismissal of the application for not taking steps by payment of batta to issue summons to the respondent No. 4. According to the applicant/appellant, the nonpayment of batta for issuing summons to the respondent No. 4 and also not filing of this petition are not wanton and wilful and the applicant/appellant came to know about it only after engaging the present counsel.

11. The applicant/appellant is the public undertaking of State Government and no motive can be attributed for the failure to pay batta for the respondent No. 4 and also in filing this petition after having known about the fact of dismissal of the appeal against the respondent No. 4. Now the respondent No. 4 is appearing by his counsel and the counsel for the respondent No. 4 is also heard in connection with the submission made by the other side. This court is of opinion that the reasons assigned for not paying batta, issuing summons to respondent No. 4 and for delay in filing this petition are followed with sufficient cause and, therefore, the delay is condoned and the applications are allowed and the order of dismissal against the respondent No. 4 dated 1.9.1998 is set aside.

12. The claimant Sridhar was examined as PW 3 while Vadivel Naicker, the respondent No. 1 was examined as RW 1. The officer of the respondent No. 3, Usha Rani was examined as RW 2 and the officer of the respondent No. 4, Selvaraj Ravi-kumar was examined as RW 3 before the Tribunal. Exh. P-I is the copy of the first information report recorded by the Traffic Police Division, East Anna Square, Madras-5 in Crime Case No. 4297V 1987 under Sections 337 and 279, Indian Penal Code against the driver of the tractor bearing No. TNO 7229 and trailer No. TCX 1638 at 7.30 a.m. on 20.9.1987.

13. It is evident from the perusal of the first information report and the evidence of PW 1 that the petitioner was riding in his cycle on the left side of Johny John Khan Road from north to south at about 6.00 a.m. on 20.9.1987, that driver Nagap-pan was driving the tractor bearing registration No. TNO 7229 and trailer No. TCX 1638 from south to north in the above said road, and that the above said driver drove the tractor and trailer

rashly and negligently overtaking the van bearing registration No. MDA 8561 at the time of occurrence and dashed against the petitioner crushing

his right leg, which was subsequently amputated in hospital, where he had undergone treatment. Exh. R-5 is the claim form filed by the respondent

No. 1 the owner of the tractor with United India Insurance Co. Ltd., the respondent No. 3 for compensation with regard to the above said

accident, in which, the respondent No. 1 has admitted that the driver Nagappan referred to above was working under him for the past 1 1/2 years

as paid driver. The above said admission of respondent No. 1 would go to show that the driver Nagappan, who drove the above said tractor and

trailer at the scene of occurrence was working under the control of the respondent No. 1 and not under the respondent No. 4, Madras

Metropolitan Water Supply and Sewerage Board, Madras-2, even though, the above said tractor and trailer was utilised by the above said

respondent No. 4 for transport of water to supply the same to the public in the city of Madras due to water scarcity.

14. Admittedly, Parasurama Lorry Service by its proprietor Manisekaran has tendered the tractor and trailer referred to above for transport of

water to the respondent No. 4 and entered into an agreement with the respondent No. 4 on 1.7.1987. It is not in dispute that there was an

agreement between the respondent No. 1, the owner of the above said tractor and trailer and Manisekaran, the proprietor of Parasurama Lorry

Service to allow the tractor to be utilised for the agreed charges to be paid by the respondent No. 4 for transport of water as mentioned above.

Exh. R-9 is the agreement dated 1.7.1987 entered into between the respondent No. 4 and Parasurama Lorry Service, Pudupet Village, Pannur

Post, Chenglepet in connection with the tractor and trailer referred to above. A perusal of the terms and conditions in Exh. R-9 would disclose that

the respondent No. 4 has to pay for utilising the service of the above said tractor and trailer for eight hours per day and for a maximum distance of

80 km. Within the above said eight hours a sum of Rs. 250 and further sum of Rs. 10 per hour, if the service of the above said vehicle was utilised

for more than eight hours. It would also disclose that the above said charges will be paid by the respondent No. 4 towards hire charges of tractor

with trailer and fuel, crew, repair to vehicle, etc., till the end of contract will not be paid by the respondent No. 4, but by the party who entered into

an agreement with respondent No. 4.

15. It is also evident from the above said terms and conditions that any damage caused to the property of the respondent No. 4 will be recovered

from the contractor and the respondent No, 4 will not be responsible for any compensation, in the event of any accident involved during the

contract period. It is also evident that the owner of the tractor and trailer had agreed to obtain and produce "no objection certificate" from the

Agricultural Department for sparing the service of the tractor and trailer to carry water for the respondent No. 4. The payment has to be settled

within 15 days from the date of receipt of the bill from the contractor along with the certificate issued by the Assistant Executive Engineer (Stores)

and Inventory Control Manager for satisfactory completion of work. It would also disclose that when the vehicle is not available for use, the

contractor has to pay Rs. 5 per day for each tank and Rs. 10 per day for each engine, if the vehicle was not available up to two days and had to

pay different higher rates if the vehicle was not available for more days as mentioned in the agreement.

16. Exh. R-11 is the agreement executed by Parasurama Lorry Service, Chenglepet with the respondent No. 4 on 28.7.87 containing the above

said terms and conditions. Therefore, it is evident from the above said documents that driver and other persons, if any, in the above said tractor

and trailer will be sent only by the owner of the vehicle. The fuel required for running the vehicle and repair to be effected on such vehicle will have

to be attended to, only by the owner of the vehicle daily, but he has to pay the prescribed charges towards tank and engine if the owner has not

made the vehicle available for transport of water to the respondent No. 4 on any date or more than one day. It will lead to establish that the

respondent No. 4 had to pay the specified charges if the owner has sent the vehicle for transport of water and that he has got no other control over

the above said vehicle or its driver. If that be so, the respondent No. 4 who has utilised the service of the vehicle of the respondent No. 1 for

transport of water cannot be held responsible for the accident that had taken place at 6.30 a.m. on 20.9.1987.

17. If the respondent No. 4 is not liable to pay the compensation to be paid to the claimant, who else is liable to pay the said compensation is the

next question to be considered in this matter. Admittedly, the tractor and trailer referred to above were insured by the respondent No. 1 with the respondent No. 2, New India Assurance Co. Ltd. for the period from 31.8.1987 to 30.8.88. Exh. R-4 is the insurance policy issued by the respondent No. 2. That apart, the respondent No. 1 has insured the above said tractor and trailer with the respondent No. 3, United India Insurance Co. Ltd. for the period from 20.4.1987 to 19.4.1988. Exhs. R-2 and R-3 are the copies of the insurance policies issued and produced by the respondent Nos. 1 and 3 respectively before this court. Therefore, it is evident that the respondent No. 1 has taken insurance policy with regard to the above said tractor and trailer with respondent Nos. 2 and 3 at the time of occurrence on 20.9.87. The learned counsel appearing for the respondent No. 2 as well as the respondent No. 3 contends that the tractor and trailer have to be utilised only for agricultural purposes and not for transport for hire or reward. That the insurance policies issued by the respondent Nos. 2 and 3 are containing such condition, that the utilisation of the tractor and trailer for transport of water to the respondent No. 4 is contrary to the terms and conditions mentioned in the policies issued by the respondent Nos. 2 and 3 and that, therefore, the insurers, viz., respondent Nos. 2 and 3 are not liable to pay any compensation to the claimant, a third party who was involved in an accident referred to above and caused by the driver of the above said tractor and trailer.

18. The learned counsel appearing for the claimant as well as respondent No. 4 contend contra to it. A perusal of Exh. R-4 would disclose that the insurance policy issued in favour of the respondent No. 1 is containing a clause that the above said tractor and trailer should be used only for agricultural purposes. A perusal of Exh. R-3 copy of the policy produced by the respondent No. 3 would also disclose that the above said tractor and trailer should be used only for agricultural purpose. But the copy issued to the respondent No. 1 and produced by the respondent No. 1 as Exh. R-2 would disclose that there is no such condition in the copy of the policy. The respondent No. 3, who issued Exh. R-2 to the respondent No. 1 has to explain as to why there is no condition in Exh. R-2 with regard to the user clause.

19. The learned counsel appearing for the respondent No. 4 would contend that the document Exh. R-3 has been produced by the respondent

No. 3 at the time of trial before the Tribunal containing such clause and that, therefore, the above said document cannot be relied upon ignoring

Exh. R-2 produced by the respondent No. 1 before the Tribunal. In the absence of any acceptable reason on the side of the respondent No. 3 for

the absence of the condition in Exh. R-2 that the tractor and trailer should be used only for agricultural purpose, the document Exh. R-3 produced

by the respondent No. 3 at the time of trial before the Tribunal cannot be safely acted upon. It is relevant to point out that the respondent No. 1,

who was served with notice in this appeal is absent before the appellate court. Therefore, this court has got no opportunity to hear the argument of

the respondent No. 1 in connection with the sale documents. In view of the said position, this court has no other option except proceed with this

appeal that the respondent No. 3 has not imposed any condition in the policy Exh. R-2 issued to the respondent No. 1 while the above said tractor

and trailer were insured with the respondent No. 3 by the respondent No. 1.

20. Section 96(2) of Motor Vehicles Act, 1939, which alone is applicable to this case, since the accident had taken place prior to the amended

new Motor Vehicles Act comes into force on 1.7.1989 enables the insurer to take certain defences available to insurers in connection with

payment of compensation by the insurer. The relevant portion in Section 96 (2) (b) reads as follows:

That there has been a breach of a specified condition of the policy, being one of the following conditions, viz., (i) a condition excluding the use of

the vehicle for hire or reward, where the vehicle is on the date of the contract of insurance, a vehicle not covered by a permit to ply for hire or

reward.

21. The vehicle in question was admittedly not covered by a permit to ply for hire or reward on the date of the occurrence but it can be used only

for agricultural purpose. Since the policy issued to the respondent No. 1 by the respondent No. 2 under Exh. R-4 is containing a condition for

using the above said tractor and trailer only for agricultural purpose, the above said condition is binding on the respondent No. 1. Since the

insurance policy issued to the respondent No. 1 by the respondent No. 3 as seen in Exh. R-2 is not containing any condition for using the vehicle

for agricultural purpose alone, the respondent No. 3 who has failed to impose

condition at the time of issuing the policy cannot be heard to say that

the above said vehicle was used contrary to the condition mentioned in the insurance policy issued by the respondent No. 3 as seen in Exh. R-2.

22. In *United India Fire & Genl. Ins. Co. Ltd. v. M.S. Durairaj* 1982 ACJ 261 , a Division Bench of this High Court has held that the insurance

company is not liable to answer to the claim of third party passenger, who has carried third party passengers in car for hire contrary to the

conditions imposed in the policy not to carry passenger for hire or reward. Accordingly, the insurance company was held not liable to pay any

compensation.

23. In *Bhoi Vanaji Dhulaji and Another Vs. Patel Shivabhai Kashibhai and Others*, , it was held by the High Court that the insurance company is

not liable to satisfy the award passed in a claim petition by the third party since, the vehicle was not covered by a permit to ply for hire or reward

and restricted to use only for agricultural purpose in this insurance policy issued by the insurance company. Therefore, it was held that the insurance

company need not pay any compensation for the claim made by the third party claimant.

24. It has also been held by a Division Bench of this High Court in *Muthu Thangiah Thevar Rice Mill Vs. Mariyayee and Others*, , that the

insurance company is not liable to pay any compensation to the third party claim, if the owner of the vehicle was permitted to use the vehicle only

for the agricultural purpose and not for any other purpose and if the accident was involved while the vehicle was used for other purpose than the

one permitted in the policy.

25. The same view has been taken by a learned single judge of this High Court in the unreported decision in *M. Raghu-nanthan and Minor Sathis*

v. Oriental Insurance Co. Ltd., C.M.A. Nos. 173 and 935 of 1992, dated 6.1.1997.

26. The learned counsel for the respondent No. 4 appellant has also brought to the notice of this court the decision in *British India Genl. Ins. Co.*

Ltd. v. Captain Itbar Singh 1958 65 ACJ 1 . It has been held that the insurance company is not entitled to take any defence which is not specified

in Section 96 (2) of Motor Vehicles Act, 1939.

27. It has also been held that the only manner of avoiding liability by the insurance company is by taking a defence as contemplated under the

above said section. In *New Asiatic Insurance Co. Ltd. v. Pessumal Dhanamal Aswani* 1958 65 ACJ 559 , it has been held that once the insurance

company had undertaken its liability to the third parties in the policy issued, the third parties right to recover any amount under or by virtue of the

provisions of the Motor Vehicles Act is not affected by any condition in the policy. In *Life Insurance Corporation of India v. Legal representatives*

of deceased *Naran-bhai Munjabhai Vadhia* 1973 ACJ 226 , the High Court of Gujarat has taken a view that the insurance company cannot

escape this statutory liability of the claim by third party, if the policy purported to cover such third party risk.

28. In *General Travels, Bangalore v. Chandrakala Shetty* 1982 ACJ 597 , it has been held that the owner, the possessor of the vehicle under hire-

purchase agreement and driver alone are liable to answer to the claim of the compensation by victims and hirer cannot be held as owner. This

decision may help the respondent No. 4 to establish that he is not liable to pay any compensation to the victim as the respondent No. 4 has utilised

the service of the vehicle on hire.

29. But the Apex Court in *United India Insurance Co. Ltd. Vs. Gian Chand and others*, , has held that as follows:

When the insured had handed over the vehicle for being driven by an unlicensed driver, the insurance company would get exonerated from its

liability to meet the claims of third party, who might have suffered on account of the vehicular accident caused by such unlicensed driver.

The latest decision of the Apex Court referred to above would disclose that if the owner or the driver contravened any of the conditions mentioned

in the policy, the insurer will be exonerated from its liability to meet the claims of third party, who might have suffered on account of vehicular

accident caused by that driver. This latest ruling brought to the notice of this court is holding the field as on today. With due respect, this court is

bound to follow the latest ruling of the Apex Court cited above in preference to the other cases cited by the learned counsel appearing for the

respondent No. 4. As per the said decision the insurer is not liable to the claim of third party even if there is a clause for liability to pay

compensation to third party in the event of breach of condition. Therefore, this court holds that the respondent No. 2 is not liable to answer to the

claim made by the claimant. But the respondent No. 3 is liable to answer to the claim of the claimant along with the respondent No. 1, the owner of the vehicle.

30. The final point to be decided in this matter is with regard to quantum of compensation payable to the claimant.

31. The claimant has claimed loss of earning of Rs. 200 for the period from 20.9.1987 to 24.9.1987 and for the subsequent periods to an extent

of Rs. 2,40,000. The claimant has also claimed a sum of Rs. 50,000 towards loss of earning power. The learned counsel for the claimant as well

as the counsel for the contesting respondents submitted that both heads mentioned above may be considered together and an appropriate quantum

may be fixed under this head. The fact remains that the claimant is a mason. The first information report produced before this court would disclose

that the age of the claimant was shown as 47 though the same has been changed in the claim petition as 38 years and in discharge certificate as 42

years. The claimant has not produced any birth register extract to show the date of birth since, he had given three different ages as mentioned

above. The first information report is the first statement made by the claimant before public authority. There fore, the age of the claimant can be

safely fixed at 47 in the absence of birth certificate or any other document being produced to prove the age of the claimant. The claimant can work

as mason for about 12 years if the age referred to above is taken into consideration as rightly decided by the Tribunal. The mason cannot get work

throughout the month as well as throughout the year. Therefore, a hard and fast rule cannot be adopted to fix the number of days on which the

claimant will get work as a mason and also the income that he can derive every month. Therefore, the days of work and the income that can be

derived by the claimant have to be fixed approximately in the light of the evidence available before the Tribunal. In view of the facts stated the

monthly income for the claimant can be safely fixed at Rs. 500 as against Rs. 400 fixed by the Tribunal. Such a conclusion has been arrived at in

the light of the loss of earning power of the claimant as a mason, whose right leg was amputated below the knee as seen from Exh. P-3, the

disability certificate. The yearly income of the claimant will be about Rs. 6,000. If the yearly income is multiplied by 12, it will work out to Rs.

72,000 as per the guidance given in the Second Schedule, Motor Vehicles Act, 1988; 60 per cent of the above said amount can be allowed

considering the permanent disability of 60 per cent mentioned in Exh. P-3. If it is calculated at that rate, it will work out to Rs. 43,200. Since the

quantum awarded towards the above said head at Rs. 48,000 has not been questioned, this court is not inclined to interfere with the quantum fixed

at Rs. 48,000 by the Tribunal for loss of earnings and loss of earning power.

32. The claimant has claimed a sum of Rs. 500 towards charges for transport to hospital and Rs. 2,300 towards extra nourishment. The claimant

was in Government hospital as in-patient for 65 days, viz., 20.9.1987 to 2.11.1987 and 15.12.1987 to 6.1.1988 and his right leg below the knee

was amputated. There was also fracture of right thigh femur, to recoup health, after sustaining such injuries and amputation, the claimant should

have spent money from his pocket. Therefore, granting a sum of Rs. 1,000 towards extra nourishment cannot be held to be lesser or higher. In

view of the fact that there is no document to show that the claimant had spent Rs. 500 towards transport charges such a claim cannot be sustained.

Accordingly, award of Rs. 1,000 towards extra nourishment granted by the Tribunal has to be sustained and accordingly sustained.

33. The claimant has claimed a sum of Rs. 25,000 towards pain and suffering. The fact remains that the claimant had his right leg below knee

crushed and was amputated. Apart from that there was also fracture in the femur. The claimant should have undergone considerable suffering and

pain. For such pain and suffering compensation awarded at Rs. 5,000 cannot be held to be a reasonable compensation and, therefore, it has to be

raised to Rs. 20,000. Accordingly, the compensation payable towards pain and suffering has been raised to Rs. 20,000 as against Rs. 5,000

awarded by the Tribunal.

34. The claimant has claimed a sum of Rs. 50,000 towards permanent disability, but the Tribunal has awarded a sum of Rs. 20,000 under that

head. A perusal of Exh. P-3 certificate of disability would disclose that the claimant was having total and permanent disability to an extent of 40 per

cent and partial and permanent disability to an extent of 20 per cent totalling to 60 per cent. Normally this court grants Rs. 1,000 towards 1 per

cent of disability. If the calculation is made at that rate, the claimant will be

entitled to a sum of Rs. 60,000 towards 60 per cent disability. The claimant has claimed only a sum of Rs. 50,000 which the claimant is entitled to. It is under the said circumstance, the amount payable towards permanent disability is raised to Rs. 50,000 as against Rs. 20,000 awarded by the Tribunal.

35. In view of the conclusion arrived at on the material facts available before court, the claimant will be entitled to a sum of Rs. 1,19,000 as against Rs. 74,000 granted by the Tribunal. Accordingly this court holds that the claimant is entitled to a compensation of Rs. 1,19,000 from the respondent Nos. 1 and 3.

36. The learned counsel for the respondent No. 3 vehemently argued that with regard to the grant of interest at 15 per cent per annum which, according to him, is on the higher side and it has to be reduced. The counsel appearing for other respondents and claimant also did not dispute that. Normally interest is granted at 12 per cent per annum on the amount awarded as compensation. This court is of view that grant of interest at 12 per cent will meet the ends of justice and accordingly rate of interest is reduced to 12 per cent instead of 15 per cent granted by the Tribunal.

37. The appeal filed by the respondent No. 4 in C.M.A. No. 944 of 1991 is allowed. The appeal filed by the claimant in C.M.A. No. 308 of 1993 is allowed in part. In the circumstances of this case, both parties are directed to bear their own costs. C.M.P. Nos. 12876, 14257 and 14258 of 1999 are closed.