

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2015

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

C.M.A. No. 1906 of 2014

M/s. New India Assurance Co. Ltd.,
rep. By its Divisional Manager,
Officer's Line, Vellore.

..Appellant/second respondent

Vs.

1. C. Anniyappan
2. T.S. Murali

..Respondents/Petitioner
and first respondent

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 10.01.2014 passed in M.C.O.P. No. 32 of 2006 by the Motor Accidents Claims Tribunal, Subordinate Court, Gudiyatham, Vellore District.

For Appellant :: Mrs. Harini for
Mr.N. Vijayaraghavan
For Respondents:: Mr.C.Munusamy for R1

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the Insurance Company questioning the liability fastened on them contending that the 1st respondent/claimant was travelling as an unauthorised passenger in the Minir Lorry, bearing Registration No. TN 23 AX 0201, which is alleged to have been driven rashly and negligently and met with an accident on 18.07.2005.

2. Heard the learned counsel for the appellant and the learned counsel for the 1st respondent/claimant.

3. Though it is contended that the claimant was travelling as unauthorised passenger in the Mini Lorry in question, it is proved through P.W.1's evidence that he was travelling as an owner of his goods, namely, vegetables, to transport them from his place to the shandy. Besides, there is no contra evidence available to prove that the claimant was travelling as an unauthorised passenger. Therefore, the plea putforth by the learned counsel for the appellant that the claimant was travelling as an unauthorised passenger is rejected.

4. The Tribunal, from the evidence of P.W.1, R.W.1 and R.W.2 found that the Mini Lorry was driven rashly and negligently and that it got capsized. The cause for the accident is only the rash and negligent driving by the driver of the Mini Lorry. Therefore, the Tribunal, rightly fixed the negligence on the driver of the Mini Lorry and fastened the liability on the appellant to pay the compensation amount. The finding given by the Tribunal, with regard to liability, is based on evidence and the same cannot be set aside. Consequently, the appeal fails and the same is dismissed. No costs.

5. Since it is submitted that the appellant has already deposited the entire award amount with interest and costs, before the Tribunal, the 1st respondent/claimant is permitted to withdraw the same within a period of one week from the date of receipt of a copy of this order.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nv
To
The MACT (Sub Court), Gudiyatham, Vellore.

+ 1 cc to Mr.C.Munusamy, Advocate SR.15239

CER(CO)
EU 05.06.2015

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