

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.Nos.3697 to 3703 of 2014
and
M.P.Nos.1,1,1,1,1,1 and 1 of 2014

Branch Manager,
M/s.National Insurance Co. Ltd.,
Rajkot, Gujarat.

... Appellant/2nd Respondent in
all CMAS

Vs.

1.S.Sithaiyyan ... 1st Respondent/Petitioner in
CMA 3697/2014.

2.Pradipbhai M.Parmer ... 2nd Respondent in all CMAs.

3.The Managing Director,
Tamil Nadu State Transport Corporation,
Salem - 7. ... Respondents/Respondents 1 & 3
in CMAs.3697 and 3700 of 2014

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act against the judgment and decree dated 26.03.2012
made in MCOP Nos.2172, 2112, 2113, 2161, 2162, 2163 and 2164 of 2005
on the file of the Motor Accident Claims Tribunal, Fast Track Court
No.1, Salem.

For Appellant : Mr.N.Vijayaraghavan

सत्यमेव जयते
COMMON JUDGMENT

These appeals have been filed against the common award
passed filed by the respective 1st respondents/claimants regarding the
same accident, which occurred on 02.02.2005, when the respective 1st
respondents were travelling as passengers in the bus, which was hit
by a lorry driven rash and negligently and insured with the
appellant/Insurance Company.

2. The Tribunal in the claim petitions filed by the
respective 1st respondent/claimants came to the conclusion, the
accident occurred because of the negligence of the driver of the
lorry and awarded amounts.

3. Heard the learned counsel for the appellant.

4. A perusal of the record would show that even though the appellant contended that the bus was driven rash and negligently, based on the evidence of the claimants as well as the driver of the bus and also considering the Ex.R1, rough sketch, the Tribunal rightly came to the conclusion that the accident did not occur in the centre of the road as claimed by the appellant and it occurred only on the left side of the road and that the lorry came to the other side and hit the bus. Therefore, the finding of the Tribunal is based on the evidence. Therefore, the finding regarding the negligence cannot be interfered with. That apart, there is no contra evidence adduced either by the lorry owner or by the appellant/Insurance Company. Whereas, the claimants as well as the driver of the bus adduced evidence. In view of that also, the finding has to be confirmed.

5. A perusal of the award passed by the Tribunal in respect of the each claim, it is revealed that the Tribunal applied its mind and based on the evidence, awarded the amounts mostly a sum of Rs.10,000/-, except in one case viz., C.M.A.No.3697 of 2014, a sum of Rs.1,04,000/- was awarded. Therefore, all the appeals are liable to be dismissed and accordingly dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

6. The appellant/Insurance Company is directed to deposit the entire amount in respect of all the appeals, along with interest and costs, after adjusting the amount if any already deposited, within a period of six weeks from the date of receipt of a copy of this order. On such deposit being made, the respective 1st respondents/claimants are permitted to withdraw the entire amount with accrued interest, after adjusting the amount if any already withdrawn, as per the ratio fixed by the Tribunal, within one week thereafter. As far as the award of the minors claimants in C.M.A.Nos.3700 and 3701 of 2014 are concerned, the same shall be deposited in any one of the Nationalized Bank, till they attain majority. The guardian of the minors are permitted to withdraw interest accruing on such deposit once in three months.

vsm

-s/d-

Deputy Registrar(J)

Dt:20/3/2015

True Copy

Sub-Assistant Registrar

To

The Motor Accident Claims Tribunal,
Fast Track Court No.1, Salem.

+ 7 ccs to Mr.N.Vijayaraghavan, Advocate SR 6507 to 6513.

jsv(co)
prk23/3

C.M.A.NOs.3697 to 3703 of 2014



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