

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.02.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.NO.2743 of 2007

Hamsa

... Appellant/Petitioner

Vs.

1.M/s.Lakshmi Saraswathi Motors Service,
R.S.Road, Gudiyatham,
Vellore District.

2.Sidhi Vijayagar

3.The Divisional Manager,
Oriental Insurance Co. Ltd.,
Divisional Office,
Katpadi Road, Vellore

... Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and judgment dated 07.11.2002 made in M.C.O.P.No.197 of 2000 on the file of Motor Accident Claims Tribunal, (Sub Court), Gudiyatham.

For Appellants : Mr.Prabakar
for Mr.N.Manokaran

For Respondents : Mrs.Harini for
Mr.N.Vijayaraghavan for R-3

JUDGMENT

This appeal has been preferred by the appellant, who has been awarded Rs.25,000/-, absolving the liability of respondents 2 and 3 from payment.

2. Heard the learned counsel appearing for the appellant and the learned counsel appearing for the 3rd respondent.

3. In the accident occurred on 27.03.1995, the appellant sustained a fracture in the right leg and other injuries when she was hit by the bus belonging to the first respondent. Based on the evidence, especially Ex.P.1 F.I.R., the Tribunal came to the conclusion that the accident occurred because of the rash and negligent driving of the driver of the bus and fastened the liability, however, dismissed the claim petition against the respondents 2 and 3. No reasoning had been given as to why the claim petition had been dismissed, especially when there is a subsisting insurance coverage of the first respondent's vehicle, insured with the third respondent Insurance Company.

4. Therefore, the amount awarded, namely, Rs.25,000/-, based on the injuries as spoken by Ex.P2 wound certificate, is confirmed as reasonable. However, the dismissal order passed as against respondents 2 and 3 is set aside and 3rd respondent is directed to pay Rs.25,000/- along with interest at the rate of 12% p.a. with costs, within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the appellant is permitted to withdraw the entire amount within one week.

5. In the result, the civil miscellaneous appeal is allowed as stated supra. No costs. Consequently, connected M.P. is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

rrg
To

The Motor Accident Claims Tribunal,
(Sub Court),
Gudiyatham.

+ 1 cc to M/s. N. Manokaran, Advocate SR.10462

UG(CO)
EU 16 .04.2015

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