

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2015

CORAM

THE HONOURABLE Ms. JUSTICE K.B.K.VASUKI

C.M.A.No.3640 of 2004

and

C.M.P.No.19525 of 2004

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupura, Division-I Limited,
Villupuram-605 602. Appellant/Respondent 3

vs.

1. Marimuthu
2. Kolanchi
3. K.Murugesan
4. National Insurance Co. Ltd.,
Branch Office No.1,
Thanthai Periyar Market Complex,
Near Bus Stop, Post Box No.15,
Salem. Respondents/Petitioners/
(cause title accepted vide order Respondents 1 & 2
dated 25.11.2004 made in CMP
No.18516 of 2004)

Civil Miscellaneous Appeal has been filed against the
award passed by the Motor Accidents Claims Tribunal, Chief
Judicial Magistrate, Villupuram by decree and common judgment
passed in MCOP No.158 of 1998 dated 27.11.2003.

For appellant : Mr.S.V.Vasanthakumar

For respondents : Mr.G.Krishnakumar,
for R.1 and R.2

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JUDGMENT

The State Transport Corporation, who is the third respondent before the Tribunal, is the appellant herein. The present appeal is filed against the impugned award insofar as it relates to fixing 25% of the liability on the State Transport Corporation bus driver for the accident occurred.

2. Heard both the learned counsel on record for the appellant and the respondents 1 and 2 and perused the entire materials available on record.

3. For the sake of convenience, the parties are referred to as per their ranking before the Tribunal.

4. The learned counsel appearing for the third respondent State Transport Corporation would contend before this Court that the evidence adduced before the Tribunal would only point out that the driver of the other vehicle involved in the accident is solely responsible for the accident by his rash and negligent driving and the driver of the State Transport Corporation was in no manner responsible for the accident. This Court is not inclined to accept the contention so raised herein for the following reason:-

There are more than one claim petitions arising out of the same accident and MCOP No.114 of 1998 was one of the claim petitions filed by the injured by name Natarajan in which both the vehicle drivers were held responsible for the accident and the extent of liability fixed on both the drivers is in the ratio of 75 : 25. Admittedly, the State Transport Corporation did not prefer any appeal against the award passed in MCOP No.114 of 1998 dated 13.3.2003 and the same become final and binding on both the parties. In that event, the State Transport Corporation cannot be permitted to question the correctness of such finding of the Tribunal made in the subsequent claim petition as they are bound by the factual finding rendered in the earlier claim petition.

5. Excluding this ground, the learned counsel appearing for the State Transport Corporation is unable to make out any other ground for interfering with the award either on the issue of liability or quantum.

6. In the result, the civil miscellaneous appeal is dismissed. The State Transport Corporation is directed to deposit the award amount payable by them, less the amount already deposited, with costs and proportionate interest at the rate of 9% per annum from the date of petition till the date of deposit, to the credit of MCOP No.158 of 1998 on the file of the Motor Accidents Claims Tribunal, Chief Judicial Magistrate, Villupuram, within four weeks from the date of receipt of a copy of this judgment. On such deposit, the claimant is permitted to withdraw the entire amount, less the amount, if any, that has already been withdrawn by him, on due cheque application. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

sbi

To

1.The Chief Judicial Magistrate,
Motor Accidents Claims Tribunal,
Villupuram.

2.The Section Officer,
V.R. Section,
High Court, Madras.

+1cc to Mr.S.V.Vasanth Kumar, Advocate, S.R.No.45784

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C.M.A.No.3640 of 2004

SKV(CO)
CA(20/10/2015)

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