

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.01.2015

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A. Nos. 3899 of 2004 & 3763 of 2012
&
C.M.P. No. 20783 of 2004

C.M.A. No. 3899 of 2004

The Managing Director,
Tamil Nadu State Transport
Corporation, Salem

(Cause title accepted vide order of Court
dated 13.12.2004 made in C.M.P.
No. 19535 of 2004)

..Appellant/1st Respondent

Vs.

1. M. Subramani

..1st Respondent/Petitioner

2. Sampath

..2nd Respondent/2ndRespondent

3. United India Insurance Co. Ltd.,
Tiruchengode, Salem.

..3rdRespondents/3rdRespondent

Prayer: Civil Miscellaneous Appeal filed under section 173 of Motor
Vehicles Act 1988 as against the judgment and decree dated 17.11.2003
passed in M.C.O.P. No. 236 of 1996 by the Motor Accidents Claims
Tribunal (Sub Court), Dharmapuri.

For Appellant :: Mr.V. Ramesh

For Respondents:: Mrs. Mythili Suresh for R1
Mrs. Harini for
Mr.M.B. Gopalan for R2

C.M.A. No. 3763 of 2012

United India Insurance Co. Ltd.,
Tiruchengode, Salem District.

..Appellant/3rd Respondent

Vs.

1. M. Subramani ... 1st Respondent/Petitioner.
2. Annai Sathya Transport Corporation
rep. By its Managing Director,
Dharmapuri. ... 2nd Respondent/1st Respondent
3. Sampath ... 3rd Respondent/2nd Respondent
(3rd Respodent exparte before
lower court)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 as against the judgment and decree dated 17.11.2003 passed in M.C.O.P. No. 236 of 1996 by the Motor Accidents Claims Tribunal (Sub Court), Dharmapuri.

For Appellant :: Mrs. Harini for
Mr.M.B. Gopalan

For Respondents:: Mrs. Mythili Suresh for R1
Mr.V. Ramesh for R2

COMMON JUDGMENT

These Civil Miscellaneous Appeals have been preferred by the Transport Corporation as well as the Insurance Company challenging the award of Rs.2,74,840/- in favour of the 1st respondent in the respective appeals/claimant, for the injuries sustained by him in the accident, which occurred on 21.11.1995, while the tempo, insured with the appellant Insurance Company, in which he was travelling, dashed against the Transport Corporation bus. The claim petition was filed seeking compensation to the tune of Rs. 4 lakhs. On enquiry, the Tribunal found that the accident occurred because of the negligence of the drivers of both the vehicles and fixed the liability equally on each of them and awarded a sum of Rs.2,74,840/- as compensation.

2. Heard the learned counsel for th appellant in the respective appeals and the learned counsel for the claimant.

3. Though each of the appellants argued to fix the entire negligence on the other, taking into consideration, the head-on collision of the vehicles, the liability has been rightly fastened by the Tribunal as 50:50.

4. As far as quantum of compensation is concenred, the 1st respondent/claimant sustained fracture in his right leg as well as fracture in his shoulder. Though, P.W.2, Doctor, as per Ex-P2, Wound Certificate and Ex-P4, Disability Certificate, opined that the disability sustained by the claimant would be 50%, the Tribunal, taking into consideration, the malunion of fractured bones and reduction of movement of right leg and shoulder of the claimant, fixed

the disability at 30%. The said determination cannot be found fault with and the same is confirmed. However, the said disability does not attract adoption of multiplier method. Therefore, the sum of Rs.1,83,600/- awarded by the Tribunal, adopting multiplier method, is set aside. Instead, taking note of the year of the accident, namely, 1995, a sum of Rs.30,000/-, @ Rs.1000/- for each percentage of disability, would be a reasonable amount towards "Disability". The amount of Rs.30,000/- awarded towards "Pain and Suffering" and another sum of Rs.30,000/- awarded towards "Loss of Amenities", though, on the higher side, are confirmed. The amount of Rs.16,240/-, awarded towards "Medical Expenses", as per Ex-P4; Rs.10,000/- awarded towards "Transportation Expenses" and Rs.5000/- awarded towards "Extra Nourishment" are all confirmed. Totally, a sum of Rs.1,21,240/- is awarded reducing the quantum of compensation awarded by the Tribunal, namely, Rs.2,74,840/-. The rate of interest awarded by the Tribunal at 9% per annum stands confirmed. The Civil Miscellaneous Appeals are partly allowed. No costs. Connected C.M.P. Is closed.

5. The appellants are directed to deposit their respective share of the award amount, with interest and costs, if not already deposited, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the 1st respondent/claimant is entitled to withdraw the entire amount. Excess amount, if any, lying in deposit before the Tribunal, shall be refunded to the respective appellants.

nv

-s/d-

Deputy Registrar(J)

True Copy

Sub-Assistant Registrar

To

1. The MACT (Sub Court), Dharmapuri.

2. The Section Officer,
VR.Section, High Court,
Madras.

+ 1 cc to M/s.V.R.Anna Gandhi, Advocate SR 2960

+ 2 ccs to M/s.M.B.Gopalan, Advocate SR 3377 & 3874

+ 1 cc to M/s.V.Ramesh, Advocate SR 3542

mp(co)

prk9/4

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