

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.Nos.2171 to 2176 of 2016

Rani, W/o S.K.Moorthy ..Appellant in all the C.M.A's

-vs-

Thamizhselvi, W/o Palani ..1st Respondent in C.M.A.No.2171
of 2016

Shanthi, W/o Kumar ..1st Respondent in C.M.A.No.2172
of 2016

Krishnaveni, W/o Kaliamurthy ..1st Respondent in C.M.A.No.2173
of 2016

Minor Anugraha rep.by her
Guardian & mother Shanthi ..1st Respondent in C.M.A.No.2174
of 2016

Kalpana, W/o Pandian ..1st Respondent in C.M.A.No.2175
of 2016

Subha, W/o Kumar ..1st Respondent in C.M.A.No.2176
of 2016

United India Insurance Company Ltd.,
rep by its Branch Manager
No.2 Road, Mayiladuthurai
Nagapattinam District ..2nd Respondent/2nd Respondent
No.2 in all the C.M.A's

Memorandum of Grounds of Civil Miscellaneous Appeals under
Section 173 of the Motor Vehicles Act, 1988 against the common
award and decree dated 30.11.2015 made in M.C.O.P.Nos.289, 290,
294, 303, 305, 261 of 2013 on the file of the Motor Accident
Claims Tribunal, Mayiladuthurai.

For Appellant:: Mr.S.Sounthar

JUDGMENT

The appellant, being the owner of the mini bus bearing
Registration No.TN 51 S 1101, having suffered the impugned
common award dated 30.11.2015 passed in M.C.O.P.Nos.289, 290,
294, 303, 305, 261 of 2013 on the file of the Motor Accident
Claims Tribunal, Mayiladuthurai for payment of a sum of
Rs.25,000/-, Rs.15,000/-, Rs.15,000/-, Rs.15,000/-, Rs.43,700/-

& Rs.15,000/- respectively as compensation to the first respondent-claimants, has brought these appeals challenging the negligence.

2. Mr.S.Sounthar, learned counsel for the appellant submitted that when the driver of the mini bus bearing Registration No.TN 51 S 1101 belonging to the appellant was proceeding on the route Sembanarkoil to Mayiladuthurai on 7.11.2012 with the passengers including the claimants, namely, the first respondent in all the appeals, at about 3.30 P.M., near Manakkudi Kizhirruppu on the Mayiladuthurai to Poompuhar main road, due to the negligence and careless driving of the driver of the State Transport Corporation bus which was going ahead of the mini bus, the mini bus plunged into a field on the right side and toppled, resultantly the claimants suffered simple injuries. However, the Tribunal has fixed the negligence on the driver of the mini bus owned by the appellant for causing the accident, on the ground that he attempted to overtake the State Transport Corporation bus proceeding ahead of his vehicle. In support of his submissions, the learned counsel also brought to the notice of this Court the evidence of the one Ms.Anugraha, the claimant in one of the appeals, who was examined as P.W.5, deposing during cross examination that the accident occurred only due to the negligence and careless driving of the driver of the vehicle, which was going ahead of the mini bus. But this aspect has been completely lost sight of by the Tribunal, resultantly the owner of the mini bus has been saddled with the liability for payment of the compensation to the injured claimants.

3. A reading of the evidence of P.W.5-Ms.Anugraha, aged about 15 years shows that when she was travelling as one of the passengers in the mini bus in question, there was a vehicle proceeding in front of the mini bus being driven carelessly. If that be the case, it is not known why no steps whatsoever were taken by the owner of the mini bus to register a First Information Report against the driver of the said vehicle. This apart, the appellant has also not pleaded before the Tribunal the status of the criminal case filed against her driver pursuant to the registration of First Information Report by the police for an offence under Sections 279 & 338 of IPC. Therefore, this Court, considering the fact that only a paltry sum of Rs. Rs.25,000/-, Rs.15,000/-, Rs.15,000/-, Rs.15,000/-, Rs.43,700/- & Rs.15,000/- respectively have been awarded by the Tribunal as compensation to the injured claimants for the simple injuries sustained by them while travelling in the mini bus owned by the appellant, is not inclined to entertain these appeals. Accordingly, the impugned common award of the Tribunal stands confirmed and the civil miscellaneous appeals are dismissed. Consequently, C.M.P.Nos.15635 to 15640 of 2016 are also dismissed.

4. The learned counsel for the appellant fairly submitted that only a portion of the award amount has been deposited. Hence the appellant is directed to deposit the entire balance amount of compensation together with proportionate interest in each case to the credit of the M.C.O.P.Nos.289, 290, 294, 303, 305, 261 of 2013 respectively on the file of the Motor Accident Claims Tribunal, Mayiladuthurai, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the first respondent-claimant in each case is entitled to withdraw the entire amount along with accrued interest by moving appropriate application before the Tribunal.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal
The Judge, Mayiladuthurai.

+ 6 ccs to Mr. S. Sounthar, Advocate SR.68652, 51, 53, 50, 49, 48

C.M.A.Nos.2171 to 2176 of 2016

RSY(CO)
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