



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2016

Coram:

WEB COPY

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.A(MD)No.164 of 2014

and

M.P(MD).No.1 of 2014

The Managing Director,
Tamil Nadu State Transport Corporation
Division-I,
New Railway Station Road,
Kumbakonam,
Thanajvur District.

.. Appellant/Respondent

-Vs-

Muniammal

.. Respondent/Petitioner

Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to allow the appeal and set aside the judgment and decree dated 08.03.2013, passed in M.C.O.P.No.752 of 2012, on the file of Motor Accidents Claims Tribunal, Additional District and Sessions Court / Special Court, Thanjavur.

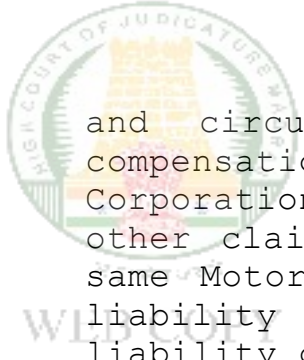
For Appellant : Mr.P.Prabhakaran
For Respondent : No Appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed to set aside the judgment and decree dated 08.03.2013, passed in M.C.O.P.No.752 of 2012, on the file of Motor Accidents Claims Tribunal, Additional District and Sessions Court/ Special Court, Thanjavur.

2.Heard the learned counsel for the appellant and perused the materials available on record.

3. It is a case of injury caused on account of an accident took place on 05.06.2011, around 9.30 p.m. near Thanjavur-Nagapattinam main road. The injured/claimant filed an application seeking compensation before the Motor Accident Claims Tribunal, Additional District and Sessions Court/ Special Court, Thanjavur, in M.C.O.P.752 of 2012 and the Tribunal by considering the facts



and circumstances, awarded a sum of Rs.80,000/- as total compensation. The appellant, Tamil Nadu State Transport Corporation preferred this appeal, mainly on the ground that the other claimants arose on account of the same accident, the very same Motor Accident Claims Tribunal, Thanjavur fixed 70% of the liability on the appellant/ Transport Corporation and 30% liability on the offending vehicle.

4. It is pertinent to note that in the said order, compensation of 70:30 was passed by the Motor Accident Claims Tribunal, Thanjavur, on 20.11.2015, in M.C.O.P.Nos.383 of 2012, 384 of 2012 and 389 of 2012 etc. When the Tribunal considered the fixation of liability of 70:30, for both the Tamilnadu State Transport Corporation and the offending vehicle in all cases and in one case alone the Tribunal has fixed 100% liability on the Tamil Nadu Transport Corporation. Therefore two different yardstick adopted by the Tribunal is un-sustainable. When the claim petitions are filed on the same accident, the Tribunal ought to have considered all the petitions equally, by fixing the liability of 70:30. In view of the fact that the claim petitions arose on account of the same accident, two different liability cannot arise and accordingly, the award passed in M.C.O.P.752 of 2012, dated 08.03.2013, is set aside.

5. In the result, this Civil Miscellaneous Appeal is allowed and the liability of 70% alone is fixed on the appellant/Tamil Nadu state Transport Corporation and in all aspects the award passed by the Tribunal is confirmed. Consequently, connected miscellaneous petition is closed. No Costs.

6. The appellant is directed to deposit 70% of the total award amount with accrued interest and costs to the credit of M.C.O.P.752 of 2012, on the file of Motor Accidents Claims Tribunal, Additional District and Sessions Court / Special Court, Thanjavur, within a period of four weeks from the date of receipt of a copy of this judgment, if not already deposited, and on such deposit being made, the respondent/claimant is permitted to withdraw the deposited amount through RTGS by filing necessary applications before the Tribunal concerned.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

PJL

To

The Motor Accident Claims Tribunal,

<https://hcc.mcaonline.in/10561257> Additional District and Sessions Court /

Special Court, Thanjavur.



COPY TO:

The Section Officer, The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.P.PRABHAKARAN, Advocate Sr.No. 78873

JAM/02.02.17/SV-MMS/3P-4C

C.M.A (MD) No.164 of 2014
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