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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.04.2016
CORAM

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

C.M.A. (MD) Nos. 1813 and 1814 of 2013
and

C.M.P. (MD) Nos. 4007 & 4008 of 2016

The Correspondent / Secretary,
The Sivakasi Naidu Mahamai Matriculation School,
Sathur Road,
Sivakasi.

.. Appellant in both the C.M.As.

Vs.

1.G.Rameeswari

2.G.Mareeswaran (Minor)

3.The National Engineering College,
K.R.Nagar, Nallatinputhur,
Kovilpatti Taluk,
Tuticorin District,
Rep. by its Correspondent / Principal

4.The National Insurance Company,
135-1, Rose Building,
1st Floor, Main Road,
Kovilpatti, Tuticorin District,
Rep. by its Divisional Manager. .. Respondents in both the C.M.As.

Appeals filed under Section 173 of the Motor Vehicles Act, 1988,
against the judgment and decree, dated 27.04.2010, passed in MCOP
Nos.105 and 106 of 2006, by the learned Subordinate Judge, Motor
Accident Claims Tribunal, Sivakasi, Virudhunagar District.

For Appellant : Mr.R.Vijayakumar
(in both the C.M.As.)

For R1 : Mr.M.Ashok Kumar
(in both the C.M.As.)

For R3 : Mr.V.Perumal
(in both the C.M.As.)

For R4 : Mr.R.Srinivasan
(in both the C.M.As.)

COMMON JUDGMENT

These civil miscellaneous appeals are filed by the owner of vehicle
against the judgment and decree, dated 27.04.2010, passed in MCOP
Nos.105 and 106 of 2006, by the learned Subordinate Judge, Motor
Accident Claims Tribunal, Sivakasi, Virudhunagar District.

2. Respondents 1 and 2 filed claim petitions in M.C.O.P.Nos.105 and
106 of 2006, claiming compensation of Rs.5,00,000/- for the death of the
daughter of the first respondent and the sister of the second respondent
and Rs.8,00,000/- for the death of the husband of the first respondent



and father of the second respondent. Before the Tribunal, originally, the respondents 1 and 2 have not impleaded the present appellant as respondent. Subsequently, the appellant was impleaded as respondent. The appellant filed vakalath and did not file any counter statement.

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3. The Tribunal considering the pleadings and evidence, came to the conclusion that the driver of the bus belonging to the appellant is responsible for the accident and fixed the entire liability on the appellant holding that there is violation of permit condition.

4. The learned counsel for the appellant submitted that the vehicle was purchased by the appellant management on 03.06.2016 and the vehicle was taken for repair and while returning the vehicle, the accident took place. As per Section 66 of the Motor Vehicles Act, permit condition need not be proved. The appellant filed vakalath and subsequently, there was change in the Management of appellant School. Due to that, the counter statement was not filed before the Tribunal. Now, the learned counsel for the appellant prayed for to remand the matters before the Tribunal to prove his case.

5. Considering the facts and circumstances of the case that there was change in the Management of the appellant School, the judgment and decree of the Tribunal, dated 27.04.2010, is set aside and both the M.C.O.Ps. are remanded back to the Tribunal directing the learned Subordinate Judge, Sivakasi, to hear the matter afresh after affording an opportunity to both the appellant as well as the respondents for filing counter and other documents and pass orders on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this Judgment. Registry is directed to return the original records as well as the impugned judgment to the Subordinate Court, Motor Accident Claims Tribunal, Sivakasi, Virudhunagar District, forthwith.

6. The Civil Miscellaneous Appeals are disposed of accordingly. No costs. Consequently, the connected civil miscellaneous petitions are closed.

Sd/
Assistant Registrar(CS-I)

/TRUE COPY/

Sub Assistant Registrar

To

The Subordinate Judge, Motor Accident Claims Tribunal,
Sivakasi, Virudhunagar District.

Copy to: The Section Officer, VR Section,

Madurai Bench of Madras High Court, Madurai.

+2ccs to Mr.R.Vijayakumar, Advocate SR.Nos.22275 & 22276

+1cc to Mr.V.Perumal, Advocate SR.NO.22635

+1cc to Mr.M.Ashok Kumar, Advocate SR.No.22386

+1cc to Mr.R.Srinivasan, Advocate SR.No.22623

C.M.A. (MD) Nos.1813 and 1814 of 2013
and C.M.P. (MD) Nos.4007 & 4008 of 2016

20.04.2016