

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)Nos.3187 to 3190 of 2009
& M.P.Nos.1,1,1 & 1 of 2009

Divisional manager,
National Insurance Co. Ltd.,
No.19, Officer Line, Vellore.

.. Petitioner in all C.R.Ps

Vs.

1. Visalakshi
2. Chandra
3. Sureshkumar
4. Divisional Manager,
United India Insurance Co. Ltd.,
No.6, Katpadi Road, Vellore.

.. Respondents in
C.R.P.No.3187/2009

(Respondents 2 & 3 remained exparte)

1. Meenakshi
2. Chandra
3. Sureshkumar
4. Divisional Manager,
United India Insurance Co. Ltd.,
No.6, Katpadi Road, Vellore.

.. Respondents in
C.R.P.No.3188/2009

(Respondents 2 & 3 remained exparte)

1. Thanjammal
2. Chandra

3. Sureshkumar
4. Divisional Manager,
United India Insurance Co. Ltd.,
No.6, Katpadi Road, Vellore.

.. Respondents in
C.R.P.No.3189/2009

(Respondents 2 & 3 remained exparte)

1. Sivakami
2. Chandra
3. Sureshkumar
4. Divisional Manager,
United India Insurance Co. Ltd.,
No.6, Katpadi Road, Vellore.

.. Respondents in
C.R.P.No.3190/2009

(Respondents 2 & 3 remained exparte)

PRAYER in all the C.R.Ps: Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and decreetal order dated 07.01.2008, made in M.A.C.T.O.P.Nos.491, 492 of 2005, 10 and 23 of 2006 respectively on the file of the Motor Accidents Claims Tribunal (Principal Subordinate Judge at Tiruvannamalai).

For Petitioner : Mr.M.Krishnamoorthy

For R1 : Mr.R.Rajarajan

COMMON ORDER

Civil revision petitions have been filed against the fair and decreetal order dated 07.01.2008, made in M.A.C.T.O.P.Nos.491, 492 of 2005, 10 and 23 of 2006 respectively on the file of the Motor Accidents Claims Tribunal (Principal Subordinate Judge at Tiruvannamalai).

2. The issues involved in all the civil revision petitions are arising out of the same accident and therefore, disposed of by the common order.

3. The petitioner/Insurance Company is the second respondent in all M.C.O.P.Nos.491, 492 of 2005, 10 and 23 of 2006 respectively. Petitioner is the insurer of the lorry involved in the accident occurred on 03.11.2004 at 4.45 a.m. According to the first respondent in all the civil revision petitions, claimants/2nd respondent is the first respondent in all the M.C.O.Ps, respondents 3 and 4 are the respondents 3 and 4 in all the M.C.O.Ps.

4. According to the learned counsel for the first respondent in all civil revision petitions, first respondent and their relatives were travelling in a van belonging to 3rd respondent, insured with 4th respondent. At that time, a lorry belonging to 2nd respondent, insured with the petitioner, driven in a rash and negligent manner, came and dashed against the van coming in the opposite direction and caused accident. The van driver, one Menega died on the spot. The first respondent in all the civil revision petitions along with others suffered multiple injuries. The first respondent filed claim petition, claiming various amounts.

5. According to the learned counsel for the first respondent, accident occurred only due to rash and negligent driving by driver of the lorry. The 2nd and 3rd respondents remained exparte. The petitioner and 4th respondent filed separate counter statements.

6. According to the learned counsel for the petitioner, accident occurred only due to the rash and negligent driving by the driver of the van carrying more than the permitted capacity of passengers. The 4th respondent in the counter stated that accident occurred only due to the rash and negligent driving by driver of the lorry. Before the driver, the first respondent in all the civil revision petitions/claimants and doctor who treated them were examined as PW1 to 6 and marked 14 documents. The petitioner examined RW1 and RW2 and marked one document as Ex.R1.

7. The tribunal considering the pleadings and oral and documentary evidence, came to the conclusion that the accident occurred only due to the rash and negligent driving by driver of the lorry and held that petitioner and 2nd respondent are liable to pay compensation. Considering the nature of injuries, the tribunal awarded a sum of Rs.4,000/-, Rs.5,000/- and Rs.6,000/- respectively as compensation to the first respondent in all the civil revision petitions.

8. Against that order dated 07.01.2008, made in M.C.O.P.Nos.491,492 of 2005, 10 and 23 of 2006, the present four civil revision petitions have been filed by the petitioner.

9. Heard learned counsel for both the parties and perused the materials on record.

10. The only point to be decided in all the civil revision petitions is, whether the accident occurred due to rash and negligent driving by driver of the lorry or due to the rash and negligent driving by driver of the van. Before the tribunal, the claimants, who are the eye-witness, deposed that the accident occurred only due to rash and negligent driving by the driver of the lorry. They have marked First Information Report. The petitioner examined RW1, who according to them is an investigator and RW2 is an official of the petitioner. The lorry driver was not examined as a witness. The witness RW2 admitted that in the petition filed by legal heirs of the deceased driver of the van, it was held that the accident occurred only due to the rash and negligent driving by driver of the lorry and awarded compensation to the legal heirs of the deceased van driver.

V.M.VELUMANI,J.

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11. From the impugned awards, it is seen that the tribunal, considered all the facts of the case and gave factual finding that the accident occurred only due to the rash and negligent driving by driver of the lorry. The tribunal has given cogent and valid reason and awarded just compensation. There is no reason warranting interference by this Court with the order of the learned trial Judge, dated 07.01.2008.

12. Accordingly, the civil revision petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are also closed.

14.07.2017

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To

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National Insurance Co. Ltd.,
No.19, Officer Line, Vellore.
2. The Divisional Manager,
United India Insurance Co. Ltd.,
No.6, Katpadi Road, Vellore.
3. The Principal Subordinate Judge
Tiruvannamalai

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