

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.4036 to 4038 of 2009
& M.P.Nos.1 of 2009

The General Manager
Tamil Nadu State Transport Corporation Ltd.,
Periyamilagupari,
Trichy. Petitioner in all CRPs

Vs.

Minor M.Rama Arjunan
Rep.by his father, guardian
R.Muruganandham

N.Kamaraj

R.Dhananm 1st Respondent in all CRPs

2.Tmt. J.Rajamani (given up)

3.M/s.United India Insurance Co. Ltd.,
No.146, N.Kumar Complex,
Tiruchengode. ... Respondents 2 & 3 in all CRPs

COMMON PRAYER: Civil Revision Petitions filed under Article 227
of the Constitution of India, against the award made in MCOP
Nos.221 to 223 of 2006 dated 29.04.2008 on the file of the Motor
Vehicle Accident Claims Tribunal, Sub Judge, Ariyalur.

For Petitioners : Mr.D.Venkatachalam
in all CRPs

For Respondents : No appearance
for R1 & R3
R2- Given up

COMMON ORDER

These Civil Revision Petitions have been filed challenging the award made in MCOP Nos.221 to 223 of 2006 dated 29.04.2008 on the file of the Motor Vehicle Accident Claims Tribunal, Sub Judge, Ariyalur.

2. The petitioner is the third respondent, the first respondents herein are the claimants and the respondents 2 and 3 are the respondents 1 and 2 in MCOP Nos.221 to 223 of 2006. The issues in all the CRPs are one and the same and hence they are disposed of by this common order. The parties are referred to, as arrayed in the claim petitions.

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3. The claimants / first respondents filed the above MCOPs claiming a sum of Rs.25,000/- each as compensation for the injuries sustained by them in the accident that occurred on 16.05.2006. According to the claimants, while they were travelling in a private

bus belonging to the first respondent, insured with the second respondent/insurance company, the driver of the said vehicle drove the same in a rash and negligent manner and while trying to overtake a cart, dashed against the bus belonging to the third respondent coming in the opposite direction and caused the accident. The driver of the first respondent is responsible for the accident and the FIR was registered against the driver of the first respondent in Cr.No.64 of 2006 under Sections 279 & 237 of IPC. Therefore, the claimants filed claim petitions claiming compensation against all the respondents.

4. The first respondent remained *exparte* before the Tribunal. The second respondent entered appearance through Advocate. The third respondent filed counter and denied all the averments made by the claimants and submitted that the driver of the bus belonging to the third respondent was driving the bus carefully at a moderate speed. On seeing the bullock cart coming in the opposite direction, the driver of the third respondent slow down the bus and at that time, the driver of the private bus belonging to the first respondent driven in a rash and negligent manner, dashed against the bus belonging to the third respondent and caused the accident. The driver of the private bus belonging to the first respondent alone is

responsible for the accident. FIR was also registered only against the driver of the first respondent.

5. Before the Tribunal, one Muruganandam, father of the claimant in MCOP No.221 of 2006 was examined as PW1 and claimants in MCOP Nos.222 & 223 of 2006 were examined as Pws2 and 3. Seven documents were marked as Exs.A1 to A7 on the side of the claimants. Neither witness were examined nor documents were marked on the side of the respondents. The Tribunal, considering the pleadings, oral and documentary evidence, held that both the vehicles belonging to the first and third respondents are responsible for the accident. Considering the nature of injuries, the Tribunal awarded a sum of Rs.9,000/- each as compensation payable to claimants and directed the 2nd respondent to pay 60% and the 3rd respondent to pay 40% of the award amount.

6. Against the said award dated 29.04.2008 made in MCOP Nos.221 to 223 of 2006, the present Civil Revision Petitions are filed.

7. Heard the learned counsel for the Corporation and perused the entire materials available on record. Though notice was served on the claimants and the insurance company and their names being printed in the cause list, there is no representation on their behalf either in person or through counsel.

8. From the materials on record, it is seen that the claimants have deposed that the driver of the first respondent was driving the private bus in a rash and negligent manner in which the claimants were travelling and while trying to overtake a cart, the bus belonging to the first respondent dashed against the bus belonging to the third respondent. FIR was also registered against the driver of the first respondent. The second respondent has stated that they have appointed an investigator but they have not filed any report. The respondents 1 and 2 have not let in any evidence to show that the driver of the third respondent is also responsible for the accident.

9. The learned Judge, considering the evidence of the claimants as well as the FIR, without there being any evidence against the driver of the third respondent and without giving any

valid reason, held that the driver of the third respondent is also responsible for the accident thereby directing them to pay 40% of the award amount as compensation to the claimants. The learned Judge has committed an irregularity in holding that the driver of the third respondent is also responsible for the accident. The said portion of the award directing the third respondent to pay 40% of the award amount as compensation to the claimants is liable to be set aside and it is accordingly set aside. The respondents 1 & 2 in MCOPs / respondents 2 & 3 herein are liable to pay the entire compensation awarded by the Tribunal and hence they are directed to pay the same to the claimants. However, the amount awarded by the Tribunal is confirmed.

10. In the result, these Civil Revision Petitions are allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes/No
rgr

To

The Subordinate Judge,
Motor Accident Claims Tribunal,
Ariyalur.

09.08.2017

V.M.VELUMANI, J.

rgr



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