

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)Nos.4145 to 4148 of 2009
& M.P.Nos.1 of 2009

Manager,
New India Assurance Co. Ltd.,
Chennai.

.. Petitioner in all CRPs

Vs.

1. Balamurugan

2. Managing Director,
Tamil Nadu Transport Corporation,
Periya Milaguparai, Trichy.

3. Elangovan

(The respondent 3 herein was set exparte
in the above O.P before the Trial Court,hence
notice to him may be dispensed with)

... Respondents

(in CRP.No.4145 of 2009)

1. Minor Kamaraj
rep.by his guardian father
Thiyagarajan

2. Managing Director,
Tamil Nadu Transport Corporation,
Periya Milaguparai, Trichy.

3. Elangovan

(The respondent 3 herein was set exparte
in the above O.P before the Trial Court,hence
notice to him may be dispensed with)

... Respondents
(in CRP.No.4146 of 2009)

1. Maharajan

2. Managing Director,
Tamil Nadu Transport Corporation,
Periya Milaguparai, Trichy.

3. Elangovan

(The respondent 3 herein was set exparte
in the above O.P before the Trial Court,hence
notice to him may be dispensed with)

... Respondents
(in CRP.No.4147 of 2009)

1. Minor Manivel
Rep.by his guardian father
Chinnakunji

2. Managing Director,
Tamil Nadu Transport Corporation,
Periya Milaguparai, Trichy.

3. Elangovan

(The respondent 3 herein was set exparte
in the above O.P before the Trial Court,hence
notice to him may be dispensed with)

... Respondents
(in CRP.No.4148 of 2009)

COMMON PRAYER: Civil Revision Petitions filed under Article 227
of the Constitution of India, against the judgment and decree of the
learned Motor Accidents Claims Tribunal (Sub-Court), Ariyalur made
in M.C.O.P.Nos.89, 90, 91 and 189 of 2006, dated 5.11.2008,
respectively.

For Petitioner : Mr.S.Jayasankar
(In all CRPs)
For Respondents : No appearance
(In all CRPs)

COMMON ORDER

These Civil Revision Petitions have been filed against the judgment and decree of the learned Motor Accidents Claims Tribunal (Sub-Court), Ariyalur made in M.C.O.P.Nos.89, 90, 91 and 189 of 2006, dated 5.11.2008, respectively.

2. The issues in all the CRPs arises out of the same accident and therefore all the CRPs are disposed of by this common order.

3. In all these Civil Revision Petitions, the petitioner /Insurance Company is the third respondent in M.C.O.P.Nos.89, 90, 91 and 189 of 2006. The 1st Respondent in all the Civil Revision Petitions filed the above MCOPs claiming a sum of Rs.50,000/- in each as compensation, for the injuries suffered by them in the accident that occurred on 09.10.2005 at 7.30a.m. According to the claimants, they were travelling in a Mahindra Van bearing Registration No.TN-46, 9433, belonging to the second respondent which was insured with the petitioner/insurance company, to Samayapuram Temple. At that time, due to the rash and negligent

driving of the driver of the bus belonging to the 2nd respondent coming behind the van, the accident occurred. Therefore, the claimants claimed compensation from the petitioner and the respondents 2 and 3 for the injuries sustained by them. The petitioner / Insurance company and the 1st respondent filed separate counter statements blaming that the negligence is on the part of the driver of the other vehicle. Before the Tribunal, both the petitioner and respondents 1 and 2 have examined their witnesses and marked the documents. The Tribunal, considering the pleadings, oral and documentary evidences, came to the conclusion that the accident occurred due to rash and negligent driving of the drivers of both the vehicles and awarded a sum of Rs.7,000/- each to the 1st respondent in all Civil Revision Petitions and directed the petitioner and the second respondent to pay 50% each to the first respondent/claimants.

4. Against the said order dated 5.11.2008 made in M.C.O.P.Nos.89, 90, 91 and 189 of 2006, the present Civil Revision Petitions have been filed.

5. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

6. Though notice was served on the 2nd respondent and their names and printed in the cause list, they have not chosen to appear either in person or through counsel.

7. From the materials available on records, it is seen that evidence has been let in by the claimants, second respondent and the driver of the van. The learned Trial Judge, considering the evidence and pleadings, came to the conclusion that the accident occurred due to rash and negligent driving of the drivers of both the vehicles. For arriving at this conclusion, the Tribunal appreciated all the materials on record in proper perspective manner and has given valid reason. The contention of the learned counsel for the petitioner that in the other claim petition arising out of the same accident, the Tribunal has held that the accident took place due to rash and negligent driving by the driver of the bus and the learned Judge, in view of the said award, ought to have exonerated the petitioner is untenable.

8. It is seen from the records that in the other claim petition,

the Transport corporation remained exparte whereas in the present claim petitions, the second respondent has filed counter blaming the driver of the Mahindra Van insured with the petitioner for the cause of the accident and examined the driver of the bus. In view of the above fact, finding in the earlier claim petition cannot be applied to the facts of the present claim petition. In these circumstances, there is no irregularity or illegality in the order of Tribunal warranting interference by this court.

9. The learned counsel appearing for the petitioner submitted that they have already deposited the entire amount awarded by the Tribunal. Hence, the first respondents / claimants in all the CRPs are permitted to withdraw the award amount, if not already withdrawn.

10. In the result, all these Civil Revision Petitions are dismissed. No costs. Consequently connected miscellaneous petitions are closed.

18.07.2017

Index : Yes/No

ms/rgr

V.M.VELUMANI, J.

rgr/ms

To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal
Ariyalur.
2. The Managing Director,
Tamil Nadu Transport Corporation,
Periya Milaguparai, Trichy.

Copies to : All the 1st respondents/Claimants

C.R.P.(NPD)Nos.4145 to 4148 of 2009



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