

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD) Nos.4337 to 4345 of 2013

M.P.Nos.1 to 1 of 2013

M/s.Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Rep.by its Managing Director,
Trichy Region, Periya Melaguparai,
Trichy -1.

.. Petitioner in all C.R.P's

Vs.

1.Kadhar Moidheen

2.Ravi

3.M/s.Reliance General Insurance
Company Limited,
Rep.by its Manager,
Reliance house, Nungambakkam,
Chennai – 600 034.

.. Respondents in CRP.4337 of 2013

1.Bhavani

2.Ravi

3.M/s.Reliance General Insurance
Company Limited,
Rep.by its Manager,
Reliance house, Nungambakkam,
Chennai – 600 034.

.. Respondents in CRP.4338 of 2013

- 1.Rajesh
- 2.Ravi
- 3.M/s.Reliance General Insurance
Company Limited,
Rep.by its Manager,
Reliance house, Nungambakkam,
Chennai – 600 034.

.. Respondents in CRP.4339 of 2013

- 1.Karthick
- 2.Ravi
- 3.M/s.Reliance General Insurance
Company Limited,
Rep.by its Manager,
Reliance house, Nungambakkam,
Chennai – 600 034.

.. Respondents in CRP.4340 of 2013

- 1.Karuppadurai @ Karuppusamy
- 2.Ravi
- 3.M/s.Reliance General Insurance
Company Limited,
Rep.by its Manager,
Reliance house, Nungambakkam,
Chennai – 600 034.

.. Respondents in CRP.4341 of 2013

- 1.Kolanchinathan
- 2.Ravi
- 3.M/s.Reliance General Insurance
Company Limited,
Rep.by its Manager,
Reliance house, Nungambakkam,
Chennai – 600 034.

.. Respondents in CRP.4342 of 2013

- 1.Ramalingam
- 2.Ravi
- 3.M/s.Reliance General Insurance
Company Limited,

Rep.by its Manager,
Reliance house, Nungambakkam,
Chennai – 600 034.

.. Respondents in CRP.4343 of 2013

- 1.Senbagam
- 2.Ravi
- 3.M/s.Reliance General Insurance
Company Limited,
Rep.by its Manager,
Reliance house, Nungambakkam,
Chennai – 600 034.

.. Respondents in CRP.4344 of 2013

- 1.Padmavathi
- 2.Ravi
- 3.M/s.Reliance General Insurance
Company Limited,
Rep.by its Manager,
Reliance house, Nungambakkam,
Chennai – 600 034.

.. Respondents in CRP.4345 of 2013

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India, to set aside the Decree and Judgements dated 30.10.2012 made in M.C.O.P.Nos.2 to 10 of 2009 respectively on the file of the Motor Accident Claims Tribunal, Additional District Judge, Ariyalur.

In CRP.No.4337 of 2013

For Petitioner	: Mr.D.Venkatachalam
For R1	: Not ready in notice
For R2	: Exparte
For R3	: No appearance

In CRP.No.4338 of 2013

For Petitioner	: Mr.D.Venkatachalam
For R1 & R3	: No appearance

For R2 : Exparte

In CRP.No.4339 of 2013

For Petitioner : Mr.D.Venkatachalam
For R2 : Exparte
For R1 & R3 : No appearance

In CRP.No.4340 of 2013

For Petitioner : Mr.D.Venkatachalam
For R2 : Exparte
For R1 & R3 : No appearance

In CRP.No.4341 of 2013

For Petitioner : Mr.D.Venkatachalam
For R2 : Exparte
For R1 & R3 : No appearance

In CRP.No.4342 of 2013

For Petitioner : Mr.D.Venkatachalam
For R1 : Not ready in notice
For R2 : Exparte
For R3 : No appearance

In CRP.No.4343 of 2013

For Petitioner : Mr.D.Venkatachalam
For R1 & R3 : No appearance
For R2 : Exparte

In CRP.No.4344 of 2013

For Petitioner : Mr.D.Venkatachalam
For R2 : Exparte
For R1 & R3 : No appearance

In CRP.No.4345 of 2013

For Petitioner : Mr.D.Venkatachalam
For R2 : Exparte
For R1 & R3 : No appearance

COMMON ORDER

These Civil Revision Petitions have been filed to set aside the Decree and Judgements dated 30.10.2012 made in M.C.O.P.Nos.2 to 10 of 2009 respectively on the file of the Motor Accident Claims Tribunal, Additional District Judge, Ariyalur.

2. The petitioner in all the Civil Revision Petitions are the first respondent, first respondents are the petitioners/claimants and respondents 2 and 3 are the respondents 2 and 3 in M.C.O.P.Nos.2 to 10 of 2009. The parties are referred to as claimants and respondents as arrayed in claim petitions. According to the claimants, on 13.04.2008, at about 23:15 hours in the mid night, the first respondents in all the Civil Revision Petitions and others travelled in a bus bearing Registration No.TN45-N-2192, belonging to the petitioner as passengers from Jayankondam to Thiruppur. At that time, a lorry bearing Registration No.TN49-AB-4554, belonging to the second respondent came from the opposite side. Both the vehicles were driven by its drivers in a rash and negligent manner at uncontrollable speed and collided head on and caused accident. The

accident took place in the middle of the road. Due to the accident, three passengers in the bus sustained fatal injuries and died in the spot itself. The claimants in M.C.O.Ps' and others sustained injuries. According to the claimants, the accident occurred due to composite negligence of the drivers of both the bus as well as the lorry. The petitioner is the owner of the bus, the second respondent is the owner of the lorry and third respondent is the insurer of the lorry belonging to the second respondent. In the circumstances, the claimants in all the M.C.O.Ps filed the said claim petition against the petitioner and respondents 2 and 3. The petitioner filed separate counter affidavit in all the M.C.O.Ps' and blamed the driver of other vehicle. The petitioner further stated that First Information Report was registered only against the driver of the second respondent's lorry.

3. Before the Tribunal, all the claimants/first respondents were examined as PWs1 to 13 and marked 28 documents. The petitioner examined his driver as RW2 and Inspector of Police was examined as RW1 and marked 4 documents as Exs.R1 to R4. The respondents 2 and 3 did not let in any oral and documentary evidence. The Tribunal, considering the evidence of PW1 and PW6, the claimants in

M.C.O.P.Nos.2 and 7 of 2009 and report of the Motor Vehicle Inspector marked as Ex.R1 and R2 dated 14.04.2008, held that both the drivers are responsible for the accident and directed the petitioner and third respondent to pay the compensation equally. The Tribunal considering the nature of injuries, awarded a sum of Rs.14,000/- in M.C.O.P.No.2 of 2009 and Rs.12,000/- in all other M.C.O.P.'s and directed the petitioner to pay Rs.7000/- in M.C.O.P.No.2 of 2009 and Rs.6000/- in M.C.O.P.Nos.3 to 10 of 2009.

4. Challenging the said awards dated 30.10.2012 made in M.C.O.P.Nos.2 to 10 of 2009, the petitioner has come out with the present Civil Revision Petition.

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

6. The learned counsel appearing for the petitioner contended that the Tribunal failed to see that First Information Report was registered only against the driver of the lorry belonging to the second respondent. On seeing the lorry being driven in a rash and negligent manner, the driver of the bus went extreme left side of

the road and stopped the vehicle and only lorry dashed against the bus. The petitioner examined his driver as RW2 to prove that accident occurred only due to rash and negligent driving by driver of the lorry. From the damage caused to the bus, as seen from the report of the Motor Vehicle Inspector, Ex.R1, it is clear that it is only the driver of the lorry, who is responsible for the accident. These contentions are without any merits. The PWs.1 and 6/ claimants in M.C.O.P.Nos.2 and 7 of 2009 deposed that both the drivers driven the vehicle in rash and negligent manner and both are responsible for the accident. The accident has taken place in the middle of the road. The bus was damaged from the front side up to rear side as per the report of the Motor Vehicle Inspector. The Tribunal rejected the contention of the petitioner that driver of the bus stopped the bus on seeing the lorry being driven in a rash and negligent manner and dashed against the bus. The reasons given by the Tribunal is that if the driver of the bus had stopped the bus, the bus would not have damaged to such an extent is valid reason. Further in the highway, two heavy vehicles were involved in the accident on head on collision and both the oral and documentary evidence clearly shows that both the drivers are responsible for the accident. In accepting the evidence of PWs1 and 6, the claimants in

M.C.O.P.Nos.2 and 7 of 2009, the Tribunal did not accept the evidence of RW2, the driver of the bus. In the circumstances there is no irregularity or illegality in the award directing the petitioner and third respondent to pay the compensation amount equally. The compensation awarded is just and reasonable.

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

05.10.2017

Index: Yes/No

gsa /mfa

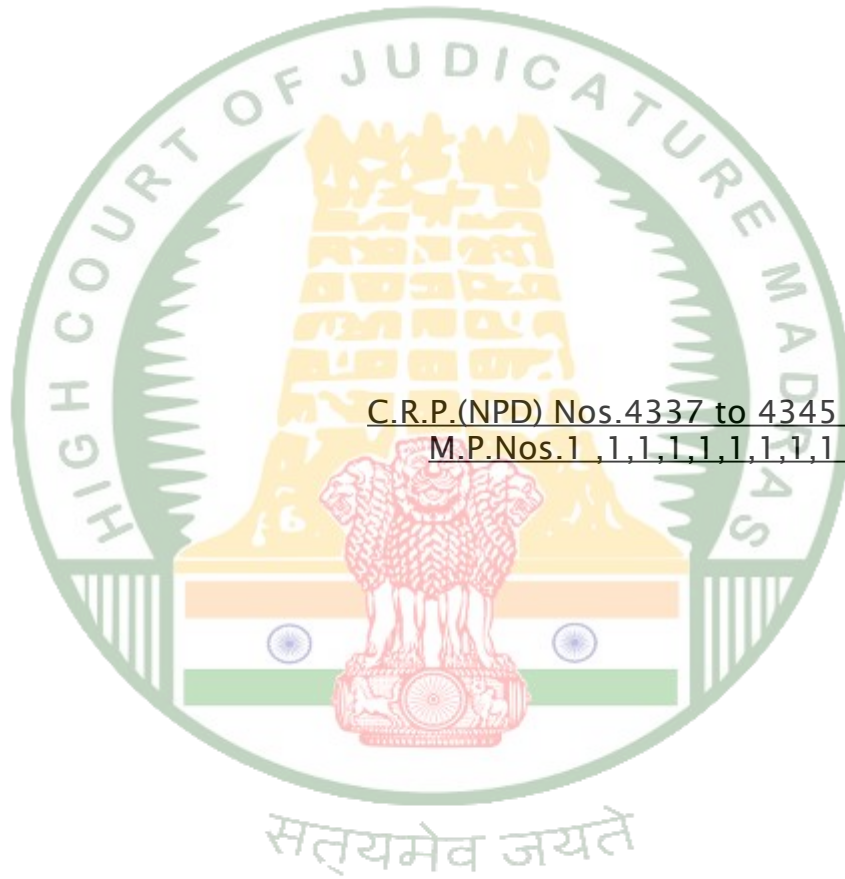
To

The Motor Accident Claims Tribunal,
Additional District Judge,
Ariyalur.

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V.M.VELUMANI,J.

mfa



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