



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CMA(MD)No.1332 of 2016

and

CMP(MD)No.11256 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
Periyamilaguparai,
Trichy-1.

... Appellant/Respondent No.1

Vs.

1.G.Pasupathi
2.P.Jeyaprakash
No.2

... Respondent No.1/Petitioner

... Respondent No.2/Respondent

3.United India Insurance Company Ltd,
85, Salem Road,
Namakkal.
No.3

... Respondent No.3/Respondent

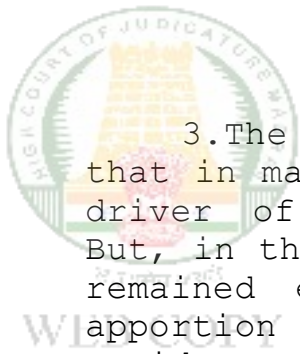
Prayer: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and decree dated 31.07.2008 made in MCOP.No.1701 of 2002 on the file of the Motor Accident Claims Tribunal, Additional District Sessions Court, (FTC No.1), Tiruchirappalli.

For Appellant	: Mr.D.Sivaraman
For Respondents	: No appearance for R1 R2-unclaimed. Mr.N.Sivakumar for R3

JUDGMENT

The Transport corporation has filed this appeal questioning the impugned award on the ground of negligence.

2.This is a case involving collision between two buses. One belonging to the appellant corporation and the other belonging to a private transport service. The accident took place on 08.04.2002. There were quite a few casualties and a number of injured. A number of claim petitions were filed.



3.The learned counsel appearing for the appellant would submit that in many of the cases the negligence was fastened only on the driver of the private bus and the appellant was exonerated. But, in this case, during the claim proceedings, the appellant had remained exparte. As a result, the Tribunal had chosen to apportion the negligence between the two buses involved in the accident. The appellant was directed to pay 50% of the award amount.

4.I am of the view that the finding of the Tribunal cannot be dislodged. However, it is made clear that the award passed in this case is confirmed only on account of the paucity of the evidence in favour of the appellant. This will not be taken as a precedent for deciding and determining the issue and negligence in other cases. They have to be decided and determined on the basis of the evidence on record available in those claim proceedings.

5.The award dated 31.07.2008 made in MCOP.No.1701 of 2002 on the file of the Motor Accident Claims Tribunal, Additional District Sessions Court, FTC No.1, Tiruchirappalli is confirmed.

6.The appellant transport corporation is directed to deposit their share as awarded by the Tribunal, with interest at the rate of 7.5% per annum from the date of petition till the date of realization and costs, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited, if any. On such deposit, the claimant is entitled to withdraw the same by filing proper application before the Tribunal, less the amount already withdrawn by him, if any.

7.With this observation and direction, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-

I)

/True Copy/

Sub Assistant Registrar

To

The District and Sessions Judge, (FTC No.1)
Motor Accident Claims Tribunal,
Tiruchirappalli.

Copy To:-

The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)



+ 1 CC TO Mr.D.SIVARAMAN, ADVOCATE IN SR No. 93643
+ 1 CC TO Mr.N.SIVAKUMAR, ADVOCATE IN SR No. 94035

SKM

TE/SKN-RSK/SAR-2 : 04/07/2018 : 2P/6C
and

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19.12.2017