



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) Nos.834 to 836 of 2015

and

M.P. (MD) .Nos.1, 1 and 1 of 2015

The Branch Manager,
Royal Sundaram Alliance Insurance,
Company Limited,
No.46, Whites Road,
Royapettah, Chennai-600 014.

... Appellant/Respondent No.2 in
C.M.A.Nos.834 to 836 of 2015

Vs.

1.Devi Perachi

...1st Respondent/Petitioner in
C.M.A.No.834 of 2015

1.Ragheswaran Potri

...1st Respondent/Petitioner in
C.M.A.No.835 of 2015

1.Saraswathi

...1st Respondent/Petitioner in
C.M.A.No.836 of 2015

2.Shanmugavel

3.The Tamil Nadu State Transport

Corporation Limited,

Represented by its Managing Director,

Bye Pass Road, Madurai.

... 2nd and 3rd Respondents in
C.M.A.Nos.834 to 836 of 2015

Common Prayer: These Appeals filed under Section 173 of Motor Vehicles Act, 1988, to set aside the fair and decreetal order dated 09.07.2012 made in M.C.O.P.Nos.165, 166, 168 of 2010 on the file of the Motor Accidents Claims Tribunal/Principal Sub Judge, Tirunelveli.

In all appeals

For Appellant : Mr.S.Srinivasa Raghavan

For Respondents : Mr.T.Selvakumaran for R1
Mr.J.Ashok for R2

Mr.M.Kalayarasan for R3

**COMMON JUDGMENT**

Heard the learned counsel on either side.

2.This is an accident involving the lorry insured with the appellant and the third respondent Transport Corporation bus. The lorry was going in the front. It appears that the Transport Corporation bus was also following closely behind. The Time was around midnight. The allegation is that the lorry had taken a right turn to enter the branch road. Since the Transport Corporation bus was following very closely from behind and not maintaining the safety distance, there was a collision. In the ensuing accident, the passengers of the bus got injured. They filed claim petition before the Tribunal.

3.The driver of the lorry as well as the driver of the bus were examined. The Tribunal fixed the entire negligence on the lorry driver and passed the award against the appellant Insurance Company. Aggrieved by the same, these three appeals have been filed.

4.As already pointed out that mere narration of the events would show that the accident would have been avoided if the Transport Corporation had maintained a safety distance. At the same time, the lorry driver cannot escape from the blame. In fact the major blame would lie only on the lorry driver. Therefore, I fix 60% of liability on the lorry driver and 40% on the Transport Corporation driver. While confirming the awards passed by the Tribunal as regards quantum, the liability is apportioned between the appellant Insurance Company and third respondent Transport Corporation as 60:40. The award dated 09.07.2012 made in M.C.O.P.Nos.165, 166, 168 of 2010 on the file of the Motor Accidents Claims Tribunal/Principal Sub Judge, Tirunelveli is accordingly modified.

5.The appellant and third respondent corporation in all the appeals are directed to pay the compensation as awarded by the Tribunal in the ratio of 60:40 with interest at the rate of 7.5% per annum with costs, from the date of petition till the date of realization, within a period of eight weeks from the date of receipt of a copy of this order. The appellant insurance company is permitted to withdraw the balance amount, if any. On such deposit, the claimants are entitled to withdraw the same, less the amount already withdrawn by them, if any, by filing proper application before the Tribunal.

6.These Civil Miscellaneous Appeals are partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/



To

1.The Principal Subordinate Judge,
Motor Accidents Claims Tribunal/
Tirunelveli.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.S.SRINIVASA RAGHAVAN Advocate in SR. No. 85339

+3ccs to Mr.T.SELVAKUMARAN Advocate in SR. No. 85288,85289,85290

+1cc to Mr.J.ASHOK Advocate in SR. No. 85375

TSG

JS/SV.MMS/SAR.1/13.12.2017/3P-8C

**C.M.A. (MD) Nos.834 to 836 of 2015
and
M.P. (MD) .Nos.1, 1 and 1 of 2015
03.11.2017**