



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.07.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.852 of 2014
and
C.M.P. (MD)No.6530 of 2017
and
M.P(MD)No.2 of 2014

1.The District Collector,
Sivagangai.

2.The Superintendent of Police,
Office of the Superintendent of Police,
Sivagangai. ... Appellants/Respondents 1 and 2

Vs.

1.Jeeva ... 1st Respondent/Claimant

2.R.Sudhanthira Babu

3.The New India Assurance Company Ltd.,
66-W.B.Road,
Trichy. ... Respondents 2 & 3/Respondents 3 & 4

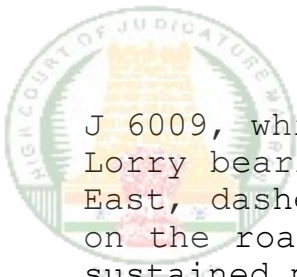
PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the fair and decretal order dated 11.10.2012 made in M.C.O.P.No.54 of 2001 on the file of the II Additional District Judge, Trichy.

For Appellants : Mr.A.K.Baskarapandian
Special Government Pleader
For R-1 : Mr.N.Sudhagar Nagaraj
For R-3 : Mr.D.Sivaraman

JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellants against the award, dated 11.10.2012 passed in M.C.O.P.No. 54 of 2001 by the learned II Additional District judge, Trichy.

2. It is a case of injury sustained in an accident, which took place on 21.04.2000 at about 15.00 hours at V.Surakudi Four road. The accident occurred, when the first respondent was travelling along with his family members in a Van bearing Registration No.TN 45



J 6009, which was insured with the third respondent herein, a Police Lorry bearing Registration No.TN 63 G 0076, which came from West to East, dashed against the van and due to that, the van was capsized on the road and in the said accident, the first respondent/claimant sustained multiple injuries all over his body.

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3. The claimant filed an application in M.C.O.P.No. 54 of 2001 on the file of the learned II Additional Judge, Trichy, seeking compensation.

4. Before the Tribunal, the first respondent/claimant examined himself as R.W.1 and examined one another witness as P.W.2 and marked four documents as Ex.P.1 to Ex.P.4. On the side of the appellants, one witness was examined as R.W.1 and one document was marked as Ex.R1.

5. The Tribunal, after considering the pleadings, oral and documentary evidence, held that the accident occurred only due to the rash and negligent driving of the driver of the appellants and therefore, directed the appellants to pay a sum of Rs.99,000/-, as compensation with interest at the rate of 7.5% per annum from the date of petition till realization.

6. Against which, the appellants have filed this present appeal challenging the liability.

7. The learned Special Government Pleader appearing for the appellants submitted that the Tribunal was erred in relying upon the evidence of P.W.1 to fix the negligence. He further submitted that the Tribunal ought to have fixed the negligence on the driver of both the vehicles. But, the Tribunal had erroneously fixed the negligence on the driver of the appellants alone and therefore, the award passed by the Tribunal warrants interference by this Court.

8. Per contra, learned counsel appearing for the third respondent submitted that after appreciating oral and documentary evidences, the Tribunal had rightly fixed the negligence on the part of the driver of the appellants and therefore, there is no infirmity in the award passed by the Court below.

9. Heard the submissions made on either side and perused the materials available on record.

10. A perusal of the award passed by the Tribunal clearly shows that one Sivaraman/R.W.1, who was working as Inspector of Police had deposed that only on the strength of the files alone, he gave his statement and he had no personal knowledge about the accident. Further, though the appellants took a plea that F.I.R was registered only against the driver of the Van and their driver was acquitted by the Criminal court, it was found that he was acquitted on the benefit of doubt and therefore, the Tribunal had rightly fixed the negligence on the driver of the appellants and therefore, there is



no infirmity in the award passed by the Tribunal and the same does not require interference at the hands of this Court.

11. In the result, this Civil Miscellaneous Appeal is dismissed and the award dated 11.10.2012 passed in M.C.O.P.No.54 of 2001 on the file of the learned II Additional District Judge, Tiruchirapalli, is confirmed and the appellants are directed to deposit the entire award amount with accrued interests and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the first respondent/claimant is permitted to withdraw the entire award amount with accrued interests and costs, without filing any formal application before the Tribunal. No Costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

The II Additional District Judge,
Trichy.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 67276
+ 1 CC TO Mr.N.SUDHAGAR NAGARAJ, ADVOCATE IN SR No. 66714
+ 1 CC TO Mr.D.SIVARAMAN, ADVOCATE IN SR No. 66653

PM

TE/KK/SAR-III : 10/08/2017 : 3P/5C

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