



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.75 of 2013

and

M.P. (MD)No.1 of 2014

The Branch Manager,
The Oriental Insurance Company Limited,
Gopal Rao Library Building,
1st Floor, Town Hall Road,
Kumbakonam.

... Appellant / 2nd Respondent

Vs.

1.R.Raja
2.Muthukkaruppan

... 1st Respondent / Petitioner
... 2nd Respondent/ 1st Respondent

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act,1988, against the award made in M.C.O.P.No.124 of 2012 dated 17.09.2012 on the file of Motor Accident Claims Tribunal cum Additional District and Sessions Judge, Pudukkottai.

For Appellant :Mr.K.Bhaskaran

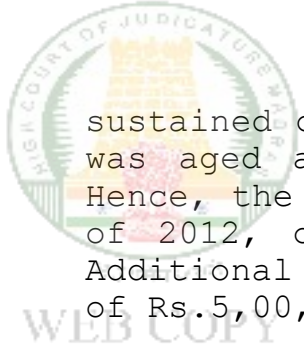
For Respondents :Mr.N.Balakrishnan
for R.1
:No appearance
for R.2

J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/Insurance Company against the award made in M.C.O.P.No.124 of 2012 on the file of Motor Accident Claims Tribunal cum Additional District and Sessions Judge, Pudukkottai.

2. The brief facts of the case are as follows:

It is a case of injury, which occurred in the accident which took place on 24.02.2007 at about 06.30 a.m. When the injured/claimant was working as Assistant conductor in the bus bearing Registration No.TN-49-L-7755 belonging to the first respondent, which was insured with the second respondent/Insurance Company and the bus was at Kattukkarai Arasamaram Bus stop and before he could board the bus and gave whistle, the bus driver suddenly started the bus, as a result of which he fell down and sustained grievous injuries. Immediately after the accident, he was admitted in the hospital and he was taking treatment continuously. Now he is having difficulty in standing and walking and he has



sustained disabilities. At the time of the accident, the claimant was aged about 38 years and was earning a sum of Rs.7,000/-p.m. Hence, the injured claimant filed a claim petition in M.C.O.P.No.124 of 2012, on the file of the Motor Accident Claims Tribunal, cum Additional District and Sessions Judge, Pudukkottai claiming a sum of Rs.5,00,000/- as compensation.

3. Before the Tribunal, on the side of the claimants, two witnesses viz., P.W.1 and P.W.2 were examined and eight documents viz., Exs.P.1 to P.8 were marked and on the side of the respondents, one witness viz., R.W.1 was examined and no document was marked.

4.The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel appearing on either side and also appreciating the evidence on record, held that the accident occurred only, due to the rash and negligent driving of the bus belonged to the first respondent and directed the appellant/Insurance Company to pay a sum of Rs.1,13,000/-, as compensation.

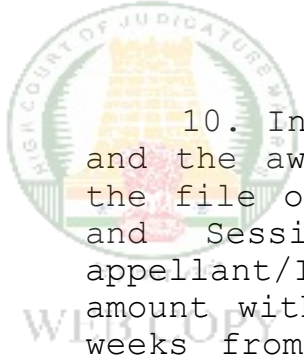
5. Against which, the appellant/Insurance Company has filed the present Civil Miscellaneous Appeal.

6. This Civil Miscellaneous Appeal is filed only on the ground of liability. There is no dispute with regard to the accident. The learned Counsel for the appellant would contend that at the time of accident, since the injured claimant was working as assistant conductor, there is no coverage of insurance policy for him and hence he is not entitled to any compensation. Hence, the Tribunal is erred in awarding compensation to the injured claimant. Therefore, he seeks interference of this Court to the award passed by the Tribunal.

7. The learned counsel for the respondent would submit that based on the available oral and documentary evidences, the Tribunal has rightly come to the conclusion and arrived at correct compensation under various heads.

8. Heard the learned counsel appearing for the appellant and perused the materials available on record.

9. There is no dispute with regard to the accident. The accident had occurred while the injured claimant was travelling in the bus. Even by relying upon the evidence of R.W.1- the owner of the bus that the inured claimant was not working as assistant conductor, since he was travelling in the bus at the time of accident, he can be treated as a passenger and if that being so, he is entitled to claim compensation for the injuries sustained by him during the accident. In view of the above, this Court is of the view that there is no infirmity or irregularity in the award passed by the Tribunal. Therefore, this Civil Miscellaneous Appeal deserves to be dismissed.



10. In the result, this Civil Miscellaneous Appeal is dismissed and the award made in M.C.O.P.No.124 of 2012, dated 17.09.2012 on the file of Motor Accident Claims Tribunal cum Additional District and Sessions Judge, Pudukkottai is hereby confirmed. The appellant/Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the injured - claimant is permitted to withdraw the entire award amount with accrued interests and costs without filing any formal petition before the Tribunal. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To,

The Additional District and Sessions Judge,
Motor Accident Claims Tribunal
cum Additional District and Sessions Court,
Pudukkottai.

+1cc to Mr.K.BHASKARAN Advocate in SR. No.75072

+1cc to Mr.N.BALAKRISHNAN Advocate in SR. No.75466

SSL/GSP

JS/MR.KKR/SAR.1/13.09.2017/3P-4C

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