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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2018

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A. No. 1247 of 2018

&

C.M.P. No. 10142 of 2018

National Insurance Company Limited,
No.25, Whites Road,
Royapettah,
Chennai 600 014.

..Appellant

Vs.

1. T.R. Indhubala @ Valli

2. M/s. C.E.S. Onyx Private Ltd.,
No.12, Haddows Road,
Chennai 600 006.

3. Kuppayee

..Respondents

Prayer: Civil Miscellaneous Appeal as against the judgment and decree dated 29.11.2008 passed in M.C.O.P. No. 244/2006 by the Motor Accidents Claims Tribunal (Additional District and Sessions Judge, FTC NO.1), Poonamallee.

For Appellant :: Mr.S. Vadivel

For Respondents :: Ms.Jayanthi Baskar for R1

J U D G M E N T

(Judgment of the Court was delivered by N. KIRUBAKARAN,J.)

This Civil Miscellaneous Appeal has been preferred by the Insurance Company as against the award of Rs.6,55,000/- granted as compensation to the claimant as well as for fastening the liability on them in respect of the accident, which took place on 03.11.2005 in which one C. Vincent, aged about 35 years, Tourist Car Operator cum Driver, allegedly earning about Rs.17,000/- per month, died, when the victim, who was driving his Tata Sumo Car from Vani Mahal towards Valluvar Kottam, was



hit by a lorry, belonging to the 2nd respondent and insured with the appellant, at Thirumalai Pillai Road, T. Nagar, driven rashly and negligently, as it crossed the yellow line and went to the right side of the road and hit the car, as there was a big pit on the left side of the road.

2. Heard Mr.S. Vadivel, learned counsel for the appellant and Ms.Jayanthi Baskar, learned counsel for the 1st respondent.

3. The accident is proved by Ex-P1, FIR and Ex-P2, Sketch. The eye-witness, P.W.2, Kumar, categorically stated that on 03.11.2005, after his work, when he was returning home, near Valluvar Kottam, the lorry, which was coming from Valluvar Kottam side towards Vani Mahal crossed the right side of the road as there was a pit on the left hand side of the road and hit against the Tata Sumo car, at Thirumalai Pillai Road, T. Nagar, which was driven by the victim. The evidence of P.W.2 is in consonance with the statement made in Ex-P1 FIR, which was given by one Rathina Gopal, who was working as a Watchman in an apartment namely, "Vasanth Apartments", which is located in Thirumalai Pillai Road. From the evidence of P.W.2, it is crystal clear that the accident occurred because of the rash and negligent driving of the lorry, which crossed the yellow line and came to the right side of the road and hit the car causing the accident. That apart, there is no rebuttal evidence on the part of the appellant. Therefore, the finding reached by the Tribunal that the accident occurred because of the rash and negligent driving of the lorry insured with the appellant Insurance Company is confirmed and the appeal fails as far as negligence aspect is concerned.

4. As far as quantum is concerned, this Court, in the connected appeal preferred by the claimant in C.M.A. No. 2121 of 2017, has enhanced the compensation awarded by the Tribunal from Rs.6,55,000/- to Rs. 14,50,000/- and allowed the appeal in part. Therefore, even in respect of quantum aspect, the appeal preferred by the Insurance Company fails.

5. In view of the above, the Civil Miscellaneous Appeal stands dismissed. No costs. Connected C.M.P. is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nv



To

The MACT (Addl. District &
Sessions Judge, FTC No.1,
Poonamallee.)

C.M.A. No. 1247 of 2018

KS (CO)
CSL/25.01.2019