

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2363 of 2011 &
M.P.No.1 of 2011

The Divisional Manager,
United India Insurance Co.Ltd.,
Motor Third Party Claim Office,
No.66-68, Gandhi Road,
Kancheepuram. ...Appellant/2nd Respondent

Vs.

1. S.Mariyamma ... 1st Respondent/Claimant
2. A.M. Munusamy Mudaliar
3. The Managing Director,
Tamilnadu State Transport Corporation
Ltd., Division-II, No. 1 and 2,
Sheikpet Nadu Street,
Kancheepuram ... Respondents 2 & 3/Respondent 1 & 3

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988 to against the judgment and decree made in M.C.O.P.No.318 of 2008 dated 31.3.2010 on the file of the Motor Accidents Claims Tribunal, Subordinate Judge, Kancheepuram.

For Appellant : Mr. S. Arunkumar

For Respondent : Mr. C. Prabakaran for R1

R2-served, no appearance

Mr. V. Ramesh for R3

JUDGMENT

The instant appeal has been filed by the Insurance Company challenging adverse finding of the negligence fixed on the driver of the insured vehicle by the Motor Accident Claims Tribunal, Subordinate Judge, Kancheepuram in its award dated

31.3.2010 passed in MCOP.No.318 of 2008.

2. The brief facts leading to the filing of the instant appeal are as follows;

(i) The 1st respondent sustained injuries on 30.11.2007 as a result of an accident caused by a bus bearing Registration No.AP-03-W-7575, owned by the 2nd respondent, insured with the appellant, while he was travelling as a passenger in a Government bus bearing Registration No.TN-32-N-2034 belonging to the 3rd respondent transport corporation.

(ii) The 1st respondent preferred a claim before the Motor Accident Claims Tribunal, Subordinate Judge, Kancheepuram in MCOP.No.318 of 2008 seeking a compensation of Rs.50,000/- for the injuries sustained by him.

(iii) The Motor Accident Claims Tribunal, by its award dated 31.03.2010 in MCOP.No.318 of 2008, directed the appellant to pay the 1st respondent a sum of Rs.42,500/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation.

(iv) Aggrieved by the finding of the tribunal attributing negligence on the part of the driver of the insured vehicle and exonerating the third respondent transport corporation, the owner of the Government bus, in which the 1st respondent was travelling as a passenger, the instant appeal has been filed by the Insurance Company. In this appeal, the appellant has challenged only the adverse finding of negligence by the tribunal and has not challenged the quantum of compensation awarded by the tribunal.

3. Heard Mr. S.Arun Kumar, learned counsel for the appellant and Mr.C. Prabakaran, learned counsel for the 1st respondent and Mr.V.Ramesh, learned counsel for the 3rd respondent. The 2nd respondent has remained exparte both before the tribunal as well as this Court.

4. It is brought to the notice of this Court that in similar Appeals filed by the appellant Insurance Company, arising out of the same accident, this Court, by its well considered judgment dated 7.9.2018 passed in C.M.A.Nos.1400 to 1403 of 2011, has confirmed the respective awards passed by the tribunal by holding that only due to the rash and negligent driving by the driver of the bus bearing Registration No. AP-03-W-7575 insured with the appellant Insurance Company, the accident had happened.

5. This Court is in agreement with the findings of the learned Single Judge of this Court in the judgment dated 7.9.2018 passed in CMA.Nos.1400 to 1403 of 2011. In the light of the aforesaid judgment passed by the learned Single Judge of this Court in CMA.Nos.1400 to 1403 of 2011, this appeal is also

dismissed.

6. In the result,

(i) the appeal is dismissed. No costs. Consequently, the connected M.P.No.1 of 2011 is closed.

(ii) the compensation awarded by the tribunal under the impugned award is hereby confirmed.

(iii) The appellant is directed to deposit the compensation awarded by the tribunal along with interest, less the amount, if any, already deposited, to the credit of MCOP within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the 1st respondent is permitted to withdraw the same along with accrued interest on filing an appropriate application.

Sd/-

Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

msr

To

1. The Motor Accidents Claims Tribunal,
Subordinate Judge,
Kancheepuram.

2.The Record Clerk,
Vernacular Section,
High Court, Madras.

+1cc to Mr.C.Prabakaran, Advocate SR.No.75674

+1cc to Mr.R.Arunkumar, Advocate SR.No.76126

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M.P.No.1 of 2011

RJI (CO)

GMV(17/12/2018)