

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2018

CORAM:

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2327 of 2013 &
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. D.Vijaya
2. M. Damodaran ... Respondents 1 & 2 (Claimants)
3. A.M. Munusamy Mudaliar
4. The Managing Director,
Tamilnadu State Transport Corporation
Ltd., Division-III, No. 1 and 2,
Sheikpet Nadu Street,
Kancheepuram ... Respondents 3&4 (Respondents 1&3)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, 1988 to set aside the award made in M.C.O.P.No.655 of 2008 dated 29-11-2010 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
not ready in notice reg. R3
Mr.V. Ramesh for R4

JUDGMENT

The instant appeal has been filed by the Insurance Company challenging the adverse finding of negligence fixed on the driver of the insured vehicle by the Motor Accident Claims Tribunal, Subordinate Judge, Kancheepuram in its award dated 29.11.2010 passed in MCOP.No.655 of 2008.

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

(i) One Lakshmi Durga succumbed to 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 3rd respondent and insured with the appellant, while she was travelling as a passenger in a Government bus bearing Registration No.TN-32-N-2034 belonging to the 4th respondent transport corporation.

(ii) The 1st and 2nd respondents, being the legal representatives of the deceased Lakshmi Durga preferred a claim before the Motor Accident Claims Tribunal, Subordinate Judge, Kancheepuram in MCOP.No.655 of 2008 seeking a compensation of Rs.7,00,000/- for the death of the deceased

(iii) The Motor Accident Claims Tribunal, by its award dated 29.11.2007 in MCOP.No.655 of 2008, directed the appellant to pay the 1st and 2nd respondents a sum of Rs.2,70,000/- 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 fourth respondent transport corporation, the owner of the Government bus, in which the deceased 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 respondents 1 and 2 and Mr.V.Ramesh, learned counsel for the 4th respondent. The 3rd 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 judgement 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 judgement 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 2013 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 respondents 1 and 2 are permitted to withdraw the same along with accrued interest as per the ratio apportioned by the tribunal on filing an appropriate application.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

msr

To

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

2. The Section Officer,
Vernacular Section,
High Court, Madras.

+1 cc to Mr.S.Arunkumar, Advocate Sr.No.76118

+1 cc to Mr.C.Prabakaran, Advocate Sr.No.75681

WEB COPY

C.M.A.No.2327 of 2013 &
M.P.No.1 of 2013

SV(CO)

CSL/23.01.2019