

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.Nos.2057 & 2058 of 2010 &
M.P.Nos.1 & 1 of 2010

1.Shanmugasundaram ...1stAppellant in both CMA
...1stRespondent in both MCOPS

2.The National Insurance Company Limited,
Rep. by its Manager, Tiruchengode.

...2nd Appellants in both CMAs
...2nd Respondent in both MCOPS

Vs.

Kasturi

...Respondent in C.M.A.No.2057 of 2010
...Petitioner in MCOP.No.315/06

Rajammal

...Respondent in C.M.A.No.2058 of 2010
...Petitioner in MCOP.No.321/06

Prayer: Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988, against the Judgement and Decree passed in MACT O.P.Nos.315 & 321 of 2006 dated 27.11.2009, on the file of the Motor Vehicles Accident Claims Tribunal, Additional District and Fast Track Court, Dharamapuri.

For Appellants in both CMAs : Mrs.N.B.Surekha
For Respondent in both CMAs : No appearance

J U D G M E N T

The instant appeals have been filed challenging the common Award dated 27.11.2009 passed by the Motor Accident Claims Tribunal, Additional District and Fast Track Court, Dharamapuri, in MCOP Nos.315 & 321 of 2006.

The brief facts leading to the filing of the instant appeals are as follows:

2. The respondent in both the appeals sustained injuries on 05.05.2005 while travelling in Ambulance van bearing registration No. TN22-2959. The said Ambulance met with an accident due to the rash and negligent driving by the driver of a lorry bearing registration No.KA01-MH-5999 which dashed the Ambulance from behind. As a result of the accident, the respondent in both the appeals sustained injuries. The respondent in CMA.No.2057 of 2010 preferred a compensation claim in MCOP.No.315 of 2006 before the Motor Accidents Claims Tribunal seeking a compensation of Rs.2,30,000/- which was restricted to Rs.50,000/- and the respondent in CMA.No.2058 of 2010 preferred a compensation claim in MCOP.No.321 of 2006 before the Motor Accident Claims Tribunal seeking a compensation of Rs.8,85,000/- which was restricted to Rs.5,00,000/-. The Motor Accident Claims Tribunal by a common Award dated 27.11.2009 passed in MCOP.Nos.315 & 321 of 2006 directed the Appellants to pay the respondent in CMA.No.2057 of 2006 jointly and severally a sum of Rs.10,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation and also directed the Appellants to pay the respondent in CMA.No.2058 of 2006 jointly and severally a sum of Rs.56,000/- together with interest at the rate of 7.5% per annum from the date of claim till the date of realisation.

3. Aggrieved by the common Award dated 27.11.2009 passed in MCOP Nos.315 & 321 of 2006, the instant appeals have been filed.

4. Heard Mrs.N.B.Surekha, learned counsel for the Appellants in both the Appeals. The respondent in both the appeals have been duly served in the instant appeals and their name have also been printed in the cause list today. Despite service of notice in both the appeals, none appears on the side of the respondent in both the appeals.

5. According to the learned Counsel for the Appellants in both the appeals, the entire negligence was upon the driver of the Ambulance in which the respondent in both the appeals were travelling. The learned counsel for the Appellants drew the attention of this Court to the sketch submitted by the police after the accident which was marked as Ex.R1 before the Tribunal. According to the learned counsel for the Appellants, as seen from the sketch, the lorry which was insured with the appellant is far away from the Ambulance and therefore, it could be established that the lorry is not responsible for the accident, which resulted in injuries to the respondent in both the appeals. Since the other grounds raised in both the appeals

are covered by the decisions of this Court as well as the decisions of the Hon'ble Supreme Court, the learned counsel for the Appellants was not pressing those grounds, during her argument.

6. This Court after having considered the materials available on record and after examining the impugned Award and after hearing the submissions of the learned counsel for the Appellants, observes the following:

(a) The nature of injuries sustained by the respondent in both the appeals are not disputed by the Appellants before the Tribunal.

b) The respondent in both the appeals have filed documents before the Tribunal which included the First Information Report, wound certificate and the copy of the insurance policy. Admittedly, the First Information Report has also been registered only against the driver of the lorry which was insured with the Appellant and the charge sheet has also been filed by the police against the said driver.

c) The Tribunal has given a clear finding that the sketch given by the police cannot be relied upon, since it would have been drawn only after the accident, which in the considered view of this Court is a correct finding.

d) Further the compensation awarded for both the claimants is a lesser sum than what was actually claimed by the respective claimants.

7. In the light above observations, this Court is of the considered view that the Award passed by the Tribunal under the common Award is a just compensation and there is no merit of the instant appeals. Accordingly, the appeals are dismissed without costs. Consequently, connected Miscellaneous Petitions are closed.

8. The Appellants jointly and severally are directed to deposit the amount awarded by the Tribunal together with interest, after deducting the amount that has already been deposited, to the credit of MCOP.Nos.315 & 321 of 2006 on the file of the Motor Vehicles Accident Claims Tribunal, Additional District and Fast Track Court, Dharamapuri., within a period of four weeks from the date of receipt of a copy of this Order. On such deposit being made, the respondent in CMA.No.2057 of 2010 is permitted to withdraw the amount lying to the credit of MCOP. No.315 of 2006 on the file of the Motor Vehicles Accident Claims Tribunal, Additional District and Fast Track Court, Dharamapuri along with accrued interest and the respondent in CMA.No.2058 of 2010 is permitted to withdraw the amount lying to the credit of

MCOP.No.321 of 2006 on the file of the Motor Vehicles Accident Claims Tribunal, Additional District and Fast Track Court, Dharamapuri along with accrued interest by filing appropriate applications.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

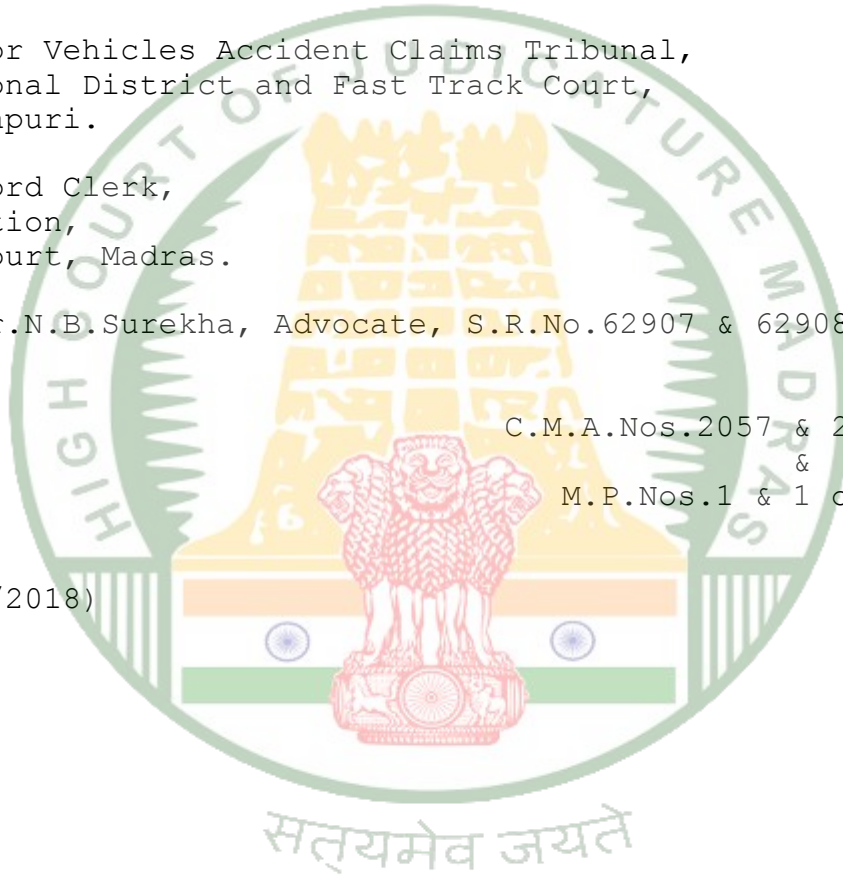
1.The Motor Vehicles Accident Claims Tribunal,
Additional District and Fast Track Court,
Dharamapuri.

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

+2cc to Mr.N.B.Surekha, Advocate, S.R.No.62907 & 62908

C.M.A.Nos.2057 & 2058 of 2010
&
M.P.Nos.1 & 1 of 2010

NRI (CO)
GSP (25/10/2018)



WEB COPY