



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2018

CORAM

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD).No.499 of 2013

and

M.P(MD).No.1 of 2013

National Insurance Company Ltd.,
Rep. through its Divisional Manager,
North Veli Street,
Madurai - 625 001.

: Appellant/Respondent-2

Vs.

1. S.Punithavathi

2. S.Lohendra

: Respondents 1&2/Petitioners 1&2

3. M/s. Ayooob and Company,
Rep. through its owner,
P.K.Ayooob.

: 3rd Respondent/1st Respondent

4. The Oriental Insurance Company Ltd.,
Rep. through its
Divisional Manager.

: 4th Respondent/3rd Respondent

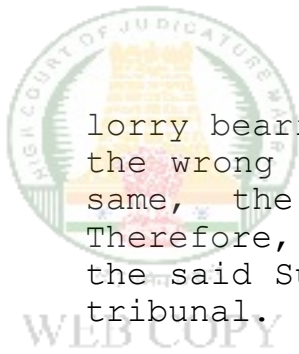
PRAYER:- Appeal filed under Section 173 of the Motor Vehicles Act, against the Judgment and Decree dated 23.07.2009 made in MCOP No.316 of 2007 on the file of Motor Accidents Claims Tribunal, Additional District & Sessions Judge, Fast Track Court No.III, Madurai.

For Appellant	:	Mr.N.Murugesan
For R.2	:	Mr.Pon Karthikeyan
For R4	:	Mr.K.Bhaskaran

JUDGMENT

Challenging the judgment and decree passed by the learned Additional District & Sessions Judge, Fast Track Court No.III (Motor Accidents Claims Tribunal), Madurai, in M.C.O.P.No.316 of 2007 dated 23.07.2009, the instant appeal has been preferred by the appellant/insurance company.

2. The case of the claimants/respondents 1 & 2 herein before the tribunal is that on 20.08.2006, at about 7 hours, the deceased Sundaramoorthy was driving the van, bearing No.TAC 1999 and when the van was nearing Jasmine Scent Company, Ammayanayakkanur, Dindigul, a



lorry bearing No.KL-08-W-7222 came in a rash and negligent manner on the wrong side and dashed against the van and in consequence to the same, the driver of the van, the said Sundaramoorthy, died. Therefore, the respondents 1 & 2 herein, being the legal heirs of the said Sundaramoorthy, had preferred the claim petition before the tribunal.

3. The tribunal, after analyzing all the facts and documentary evidences, has awarded Rs.3,65,000/- as compensation and given a finding that the accident has occurred because of the composite negligence and therefore, assessed the negligence on the part of the van's driver/deceased as 60% and lorry's driver as 40%. Thereby, the appellant/insurance company was directed to pay 40% of the said amount, i.e., Rs.1,46,000/-, against which, the appellant/insurance company is before this Court.

4. Though several grounds are raised in the memorandum of grounds, the main grounds on which the appellant Corporation has preferred this appeal are negligence and quantum. As far as the negligence is concerned, the tribunal has discussed the same very elaborately and the relevant portion reads thus,

"..there is also no proof that the driver of the van was holding valid driving licence at the time of accident and at the same time, since the accident had taken place on the eastern side of the middle portion of the thar road, more degree of negligence has to be attributed to the van driver and therefore the Tribunal decides that the accident is caused only because of the negligence of the drivers of the van and the lorry at the ratio of 60:40 respectively."

On a mere reading of the above, this Court is of the view that the tribunal, after a careful analysis, has rightly fixed the negligence and therefore, the same does not warrant any interference.

5. Insofar as the quantum is concerned, the tribunal, after taking into consideration the age; monthly income; has fixed a minimal quantum, as fairly agreed by the Counsel on both sides, which, in my considered opinion, is reasonable and therefore, the same also does not warrant any interference.

6. Since the very grounds, on which the appellant/Insurance Company has preferred this appeal, lack merits, the appeal is liable to be dismissed and the same is accordingly dismissed. The award passed by the tribunal in M.C.O.P.No.316 of 2007 dated 23.07.2009, is hereby confirmed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

/True Copy/



To

The Additional District & Sessions Judge,
Fast Track Court No.III,
Motor Accidents Claims Tribunal,
Madurai.

Copy To:-

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

- + 1 CC TO Mr.R.PONKARTHIKEYAN, ADVOCATE IN SR No. 59635
- + 1 CC TO Mr.K.BHASKARAN, ADVOCATE IN SR No. 59626
- + 1 CC TO Mr.N.MURUGESAN, ADVOCATE IN SR No. 59875

GK

TE/SKN-RSK/SAR-4 : 28/04/2018 : 3P/7C

C.M.A (MD) .No.499 of 2013
04.04.2018