



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 28.08.2018

CORAM :

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

CMA(MD)No.523 of 2013

and

M.P(MD)No.1 of 2013

The Branch Manager,  
The United India Insurance Co. Ltd.,  
Kumbakonam.

... Appellant/3<sup>rd</sup> Respondent

vs.

1) Muthukrishnan, S/o.Karuppaiya ... Respondent/Petitioner

2) Vaiyampatty Agricultural Engineering Service,  
Vaiyampatty,  
Rep. By its Special Officer, ... Respondent/1<sup>st</sup> Respondent

3) The Special Officer,  
Anna Agricultural Engineering,  
Service Co-operative Centre Ltd.,  
Kumbakonam. ... Respondent/2<sup>nd</sup> Respondent

4) The Managing Director,  
Tamil Nadu State Transport Corporation Ltd.,  
Division -I, Kumbakonam. ... Respondent/3<sup>rd</sup> Respondent

Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree, dated 07.06.2011, passed in M.A.C.O.P.No.36 of 2009, by the learned Chief Judicial Magistrate, Motor Accident Claims Tribunal, Thanjavur at Kumbakonam.

For Appellant : Mr.G.Prabhu Rajadurai

For R1 : Mr.M.Karunanithi

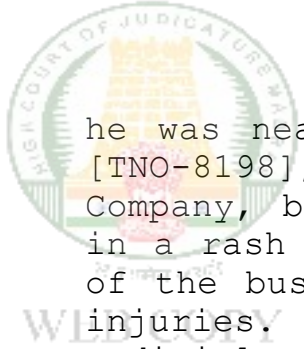
For R3 : Mr.V.P.Rajan

For R4 : Mr.S.Velayutham

### JUDGMENT

This Civil Miscellaneous Appeal has been filed against the award, dated 07.06.2011, passed in M.A.C.O.P.No.36 of 2009, by the learned Chief Judicial Magistrate, Motor Accident Claims Tribunal, Thanjavur at Kumbakonam.

2.It is the case of the first respondent/claimant that on 31.03.2004 at 6.00 a.m., he drove the T.N.S.T.C. Bus bearing Registration No.TN-49-N-0940 from Kumbakonam to Thanjavur. While



he was nearing Pasupathikoil, a Tractor [TN-45-6991]-cum-Trailor [TNO-8198], which was insured with the appellant Insurance Company, belonging to the respondents 2 and 3 respectively, came in a rash and negligent manner and dashed against the front side of the bus, as a result, the first respondent/claimant sustained injuries. He made a claim in M.C.O.P.No.36 of 2009, before Chief Judicial Magistrate Court, Motor Accident Claims Tribunal, Thanjavur at Kumbakonam, claiming compensation of Rs.10,00,000/-.

3.The appellant Insurance Company filed counter affidavit resisting the claim.

4.Considering oral and documentary evidence adduced on either side, the Tribunal found that the driver of the Tractor-cum-Trailor was responsible for the accident and awarded compensation of Rs.4,68,000/- with interest at 7.5% p.a. from the date of claim petition till the date of deposit to be paid equally by the appellant Insurance Company and the second respondent.

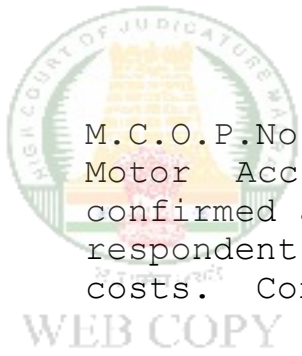
5.Aggrieved by the said award, the appellant Insurance Company has filed the present appeal.

6.I have heard the learned counsel appearing for the parties and perused the materials available on record.

7.Perusal of the record shows that the first respondent/claimant examined himself as P.W.1 and narrated the manner of accident. Ex.P.1 - FIR has been registered against the driver of the Tractor-cum-Trailor. The said Tractor and the Trailor belonged to different owners. Both were insured with the respective Insurance Companies.

8.Before the Tribunal, the appellant Insurance Company contended that the Tractor was not insured with them and only the Trailor was insured with them. During examination, P.W.1 has categorically deposed that the Tractor grazed the bus and the Trailor hit the bus and thus, the accident occurred.

9.Perusal of the record shows that the evidence of P.W.1 is supported by Ex.P.1 - FIR. The appellant and the respondents 2 and 3 have not let in any contra evidence to disprove the same. Further, the evidence of P.W.1 that the Tractor grazed the bus and the Trailor dashed against the bus is not disproved by the appellant and the respondents 2 and 3. In the absence of any evidence, contrary to the manner of accident as stated by P.W.1, this Court is not inclined to interfere with the finding of the Tribunal that the Tractor-cum-Trailor are equally responsible for the accident. Hence, the said finding of the Tribunal is confirmed. Accordingly, this Civil Miscellaneous Appeal is dismissed and the judgment and decree, dated 07.06.2011, passed in



M.C.O.P.No.36 of 2009, by the learned Chief Judicial Magistrate, Motor Accident Claims Tribunal, Thanjavur at Kumbakonam, is confirmed and the award amount is directed to be paid to the first respondent/claimant as per the ratio fixed by the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Chief Judicial Magistrate,  
Motor Accident Claims Tribunal,  
Thanjavur at Kumbakonam.
2. The Special Officer,  
Anna Agricultural Engineering,  
Service Co-operative Centre Ltd.,  
Kumbakonam.
3. The Managing Director,  
Tamil Nadu State Transport Corporation Ltd.,  
Division -I, Kumbakonam.

COPY TO

The Record Keeper, (2 copies)  
V.R. Section,  
Madurai Bench of Madras High Court,  
Madurai.

+1cc to Mr.G.Prabhu Rajadurai, Advocate Sr.No.80900  
+1cc to Mr.G.Karnan, Advocate Sr.No.80497  
+1cc to Mr.M.Karunanithi, Advocate Sr.No.80511

SMN2

VB/RSK/SAR2/11.10.2018/3P/9C

CMA(MD)No.523 of 2013  
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