



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2018

CORAM

WEB COPY

THE HON'BLE MS.JUSTICE V.M.VELUMANICMA(MD) No.374 of 2011
and M.P.(MD) No. 1 of 2011United India Insurance Co., Ltd.,
Represented by its Branch Manager,
7/328D, Sowkkathali Street,
Paramakudi,
Ramanathapuram District.... Appellant/4th Respondent**-Vs-**

1. N.Pandi ...1st Respondent /Claimant
2. Alfonse Rani ... 2nd Respondent/1st Respondent
3. The New India Assurance Co.Ltd.,
represented by its Branch Manager,
3548/2 & 3549/2, 1st Floor,
P.P.K. Complex,
South Main Street,
Puthukkottai Town,
Puthukkottai District. ... 3rd Respondent/2nd Respondent
- 4.Jamuna Begam ... 4th Respondent /3rd Respondent

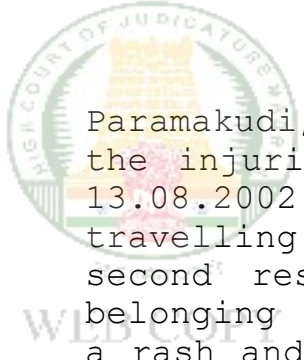
[Respondents No.2 & 4 herein was Ex Parte before the Tribunal]

PRAYER: Civil Miscellaneous Appeal - filed under Section 173 of Motor Vehicle Act, against the Judgment and Decree dated 09.03.2006 made in MCOP.No.97 2003 on the file of the Motor Accident Claims Tribunal (Subordinate Judge) Paramakudi.

For Appellant	: Mr.B.Rajesh Saravanan
For R3	: Mr.B.Vijay Karthikeyan
For R4	: No Appearance
For R2	: Dispense with

JUDGMENT

<https://hcservices.ecourts.gov.in/hcservices/>
The first respondent filed M.C.O.P.No.97 of 2003 on the file of the Motor Accident Claims Tribunal, (Subordinate Judge)



Paramakudi, claiming a sum of Rs.2,50,000/- as compensation for the injuries suffered by him in the accident that took place on 13.08.2002. According to the first respondent, while he was travelling in the Van bearing Reg.No.TN.65-B-2440, belonging to the second respondent herein, a lorry bearing Reg.No. TN.28B-3450 belonging to the fourth respondent herein driven by its driver in a rash and negligent manner and dashed against the Van and caused the accident. The owners of Van as well as the lorry remained ex-parte. The third respondent as well as the appellant filed a counter statement blaming the drivers of other vehicles.

2. Before the Tribunal, the first respondent/claimant examined himself as P.W.1 and one Doctor Ramadoss was examined as P.W.2 and marked 10 documents as Ex.A.1 to Ex.A.10. On behalf of the appellant and the third respondent, three witnesses were examined as R.W.1 to R.W.3. Two documents were marked as Ex.R.1 and Ex.R.2. The lorry driver was examined as R.W.1. The Van driver was examined as R.W.2.

3. The Tribunal considering the pleadings, oral and documentary evidence held that both the driver of the Lorry and Van are responsible for the accident and directed the appellant and the third respondent to pay the compensation awarded equally. The Tribunal considering the nature of injuries awarded a sum of Rs.1,87,700/- as compensation.

4. The appellant has come out with the present appeal challenging the award of the Tribunal directing the appellant to pay 50% of the compensation amount to the first respondent.

5. The learned counsel appearing for the appellant contended that the Tribunal failed to properly appreciate the evidence let in by the parties, the First Information Report was registered only against the driver of the lorry. The driver of the lorry has deposed falsely and his evidence is contrary to the report of the Motor Vehicle Inspector's Act. The Tribunal has not correctly appreciated the evidence of R.W.2 the driver of the Van.

6. The learned counsel for the third respondent contended that the accident took place only due to rash and negligent driving of the driver of the Van. The driver of the Van R.W.2 has admitted that the accident took place only due to the rash and negligent driving of the Van. R.W.2 has admitted that the accident took place when the vehicle was coming near curve of the road and he could not avoid the accident. In view of the same, the Tribunal ought to have directed the appellant to deposit the entire compensation amount.

<https://hcservices.ecourts.gov.in/hcservices/> and the learned counsel for the appellant and the learned counsel appearing for the third respondent. This Court has perused the materials available on record.



8. The learned counsel appearing for the appellant and the third respondent referred evidence of witnesses. From the evidence of R.W.2, it is seen that he has admitted that both the drivers are responsible for the accident. Further, the accident has taken place near curve in the Highways. Considering the evidence of R.W.2 where he admitted that both the drivers are responsible for the accident and the fact that accident took place on the Highway near curve, there is no error in the award of the Tribunal and the same is confirmed.

9. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Subordinate Judge,
Motor Accident Claims Tribunal,
Paramakudi.
2. The Record Keeper, V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.B.RAJESH SARAVANAN, ADVOCATE IN SR No. 77543
+ 1 CC TO Mr.B.VIJAY KARTHIKEYAN, ADVOCATE IN SR No. 77567
+ 1 CC TO Mr.D.MURUGANANDHAM, ADVOCATE IN SR No. 77399

CM

TE/RSK/SAR-2 : 05/10/2018 : 3P/7C

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and M.P. (MD) No. 1 of 2011
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