



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.06.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

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Second Appeal (MD) No.18 of 2013

and

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

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Vannarapettai,
Tirunelveli -3.

: Appellant / Appellant / Defendant

-Vs-

1.M/s.New India Assurance Company Limited,
87, Mahatma Gandhi Road,
Mumbai, through its Division Manager,
41/B, Victoria Street,
Tuticoroin -1.

: 1st Respondent / 1st Respondent
/ 1st Plaintiff

2.M/s.D.C.W. Limited,
Sahupuram, through its Power
of Attorney Agent, 1st Plaintiff

: 2nd Respondent / 2nd Respondent
/ 2nd Plaintiff

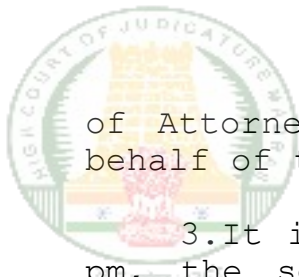
Prayer: Second Appeal filed under Section 100 of the Code of the Civil Procedure, to set aside the judgment and decree passed in A.S.No.156 of 2005, dated 28.04.2009 by the Sub Judge, Thoothukudi, confirming the decree and judgment passed in O.S.No.141 of 2004, dated 31.01.2005 by the Additional District Munsif, Thoothukudi.

For Appellant	:Mr.M.Prakash
For R1	:Mr.B.Vijay Karthikeyan
For R2	: No Appearance

JUDGMENT

This second appeal is preferred by the defendant in the suit in O.S.No.141 of 2004 on the file of Additional District Munsif Court, Thoothukudi.

2.The respondents in this appeal filed a suit in O.S.No.141 of 2004 on the file of the Additional District Munsif Court, Thoothukudi for directing the defendant to pay a sum of Rs.63,580/- to the first plaintiff with future interest at 12% per annum. The first plaintiff is a Company registered under the Company Act, doing business in General Insurance. The first plaintiff, by Special Power



of Attorney, dated 27.02.2002, is also empowered to prosecute on behalf of the second plaintiff.

3. It is stated in the plaint that on 26.02.2001, at about 9.45 pm, the second plaintiff's vehicle, a tanker lorry, loaded with Vinyl Chloride Monomer, was proceeding to the second plaintiff's factory at Sahupuram. One Jeep belongs to the second plaintiff was also escorting the tanker. On the way, the appellant bus bearing registration No. TN-72-N-0726, came from the opposite direction hit the tanker lorry. Stating that the accident was occurred only due to the rash and negligent driving of the appellant's driver, the suit has been laid claiming damages. The suit was decreed by the trial Court and the learned Sub Judge, Thoothukudi also confirmed the findings of the trial Court in A.S. 156 of 2005. Aggrieved by the judgment and decree of the lower appellate Court, the appeal has been preferred. This Court has admitted the appeal only on the following substantial question of law:

"Whether the specific bar on the jurisdiction of the Civil Courts under the Provision of Motor Vehicles Act to try claim cases, whether the Courts below are correct in rejecting the plea of the defendant, challenging the jurisdiction of Civil Court and concluding that the suit is maintainable as the claim amount is already paid to the first plaintiff by the second plaintiff?"

4. Though the appellant herein, who is the defendant in the suit, has not raised any legal issue as regards the jurisdiction of the Civil Court to decide the suit before the Courts below, raised a legal issue that a Civil Court has not jurisdiction to decide the suit claiming compensation for the loss on account of a motor accidents. The appellant has framed the substantial question of law, stating that there is a bar on the jurisdiction of Civil Court under the Provisions of Motor Vehicles Act to decide claim cases and that the Courts below ought not to have entertained the suit, which comes within the jurisdiction of Motor Accidents Claims Tribunal. Except the jurisdictional issue, the learned Counsel for the appellant has not advanced any arguments on merits.

5. The learned Counsel for the appellant, however, failed to convince this Court by any precedent or by referring to the provisions of Motor Vehicles Act about the exclusive jurisdiction of the Tribunal to decide these kinds of cases arising out of motor accidents. The learned Counsel for respondent however, relied upon a judgment of this Court in the case of Ramalingam Chettiar and another vs Tamil Nadu Water and Drainage Board, represented by the Chief Engineer and another, reported in 1990 ACJ 443. In a similar situation, his Lordship, Mr. Justice T. Sathidev (as he then was) has held as follows:

<https://hcservices.ecourts.gov.in/hcservices/>11. The Tribunal has been thus conferred with power to entertain claims arising in respect of motor



accidents involving death or bodily injury to human beings or damages to any property of a third party so arising or both. The words "motor vehicles, or damages to any property of a third party so arising or both" were included by Act 56 of 1969. Prior to this, the Tribunal had no jurisdiction to decide upon compensation for damages to property of a third party. The intendment of the amendment was that when the Tribunal has to render a finding on the nature of the accident, it would be inadvisable to subject the respondents to face the proceedings in a different forum for damages to property of a third party arising from the same accident, and risk a different finding being arrived at by the other forum about nature of accident. Multiplicity of proceedings relating to the same accident has been avoided. In essence, when there is a composite claim, it would be advisable for the Tribunal to decide upon both the claims. Does this amendment also cover cases wherein a claim is made only for damages to property of a third party arising out of the use of motor Vehicle? The words "or both" having been used, it clearly means that the Tribunal has jurisdiction not only to deal with either of the one or other, but both. It is not as if only in instances where composite claims are made, the Tribunal could be moved. If the compensation claimed is in respect of death or injury, the Tribunal can decide upon it. Equally, if the compensation claimed is only in respect of damages to any property of a third party in a motor vehicle accident, it could also be dealt with by the Tribunal.

12. In the light of these decisions above referred to, it is only the proviso to Section 110(1) which restricts the jurisdiction of the Tribunal, at the option of the claimant. The proviso deals with instances wherein a composite claim is made, and if the compensation claimed to property is more than Rs. 2,000 then on the claimant opting for the matter to be decided by the Civil Court, the Tribunal ceased to have the jurisdiction over the claim. The intendment of the Act is that, the Tribunal even though has the jurisdiction to decide upon compensation for damages to property for an unlimited amount; it is left to the option of the claimant if the damages claimed is more than Rs. 2,000 either to invoke the jurisdiction of the Tribunal or a Civil Court. The Act itself having envisaged two forums for a claim of this nature, provided the compensation claimed would be more than Rs. 2,000, petitioner cannot contend that by the amendment effected, Civil Courts have lost their jurisdiction to decide upon compensation for loss of property of a third party in a motor vehicle accident. Only in respect of claim less than Rs. 2,000 the Civil Courts have no jurisdiction to entertain a civil suit.



13. Therefore, when the jurisdiction of a Civil Court is dependent upon the option of the claimant, and in the instant case, when the respondent had chosen to file a civil suit; in the light of the decisions above referred to, the suit filed in the Sub-Court, Vellore is maintainable, and hence, this revision petition is dismissed, No Costs."

6. This Court is perfectly in agreement with the judgment of this Court cited above and answer the question of law against the appellant / defendant and hold that the Civil Court's jurisdiction is not ousted to decide a suit claiming damages to property arising out of a motor accident. As a result, this second appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Subordinate Court,
Thoothukudi.
2. The Additional District Munsif,
Thoothukudi.
3. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1CC to Mr.M.Prakash Advocate in SR.No.66908.

+1CC to Mr.B.Vijay Karthikeyan, Advocate in SR.No.67252.

CMR

DS/JC/SAR-3 :29.06.2018: 4P/7C

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06.06.2018