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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2019

CORAM:

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

Civil Miscellaneous Appeal Nos.2967,3202 and 3317 of 2003

Branch Manager
United India Insurance Co.Ltd
Branch Office, Old Bangalore Road
Hosur - 635 109

.. Appellant / 2nd Respondent in all CMAs

Vs

1. M.Muniraj
2. K.Mahendiran

Respondents /Petitioner/
1st Respondent in CMA No.2967 of 2003

1. Muniappa
2. K.Mahendiran

Respondents /Petitioner/
1st Respondent in CMA No.3202 of 2003

1. Sivaraj
2. K.Mahendiran

Respondents /Petitioner/
1st Respondent in CMA No.3317 of 2003

Common Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree, dated 21.03.2002 passed in M.C.O.P.Nos.57 of 2001, 53 of 2001 and 101 of 2000 on the file of the Motor Accident Claims Tribunal, Subordinate Court, Krishnagiri.

For Appellant : Mr.N.Vijayaraghavan (for all CMAs)

For Respondents: Mr.M.Sriram (for all CMAs)

C O M M O N J U D G M E N T

These Civil Miscellaneous Appeals have been filed by the Insurance Company challenging the negligence as well as the quantum awarded by the Tribunal. In



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respect to the accident that took place on 14.06.1999, the claimants/1st Respondent(s) herein have filed claim petitions claiming sums of Rs.30,000/-, Rs.30,000/- and Rs.4,00,000/- as compensation.

2. It is the case of the claimants that they, along with some others, were proceeding in a Tempo bearing Reg.No.KA 052 115 belonging to the 2nd respondent herein and insured with the appellant herein. The said tempo was driven by its driver / owner, the 2nd respondent herein. On account of the rash and negligent driving, the tempo capsized due to sudden break applied. As a result of the same, the claimants and the others were thrown out of the vehicle and sustained grievous injuries. A Criminal case came to be registered. For the grievous injuries sustained, the claimants have filed the above said MCOPs.

3. The learned counsel appearing for the appellant contended that fixing the liability on the appellant, in a case where the claimants and other victims were unauthorised passengers in goods vehicle, is not in consonance with law. The learned counsel further submitted that the number of persons carried was in violation of the permitted number under the provisions of the Motor Vehicles Act and therefore, the appellant should be exonerated from the liability.

4. Per contra, the learned counsel for the 1st respondent(s)/claimants submitted that the Tribunal has considered all the aspects into consideration and has rendered findings, based on the materials available on record and hence the same do not require any interference.

5. This Court has considered the said submission and perused the materials available on record.

6. To appreciate the contentions raised, it is necessary to go through the award of the Trial Court. The trial Court framed the following issues:-

- ♦ Whether the accident had occurred on account of rash and negligent driving by the driver of the Tempo?
- ♦ Whether the claimants are entitled to the compensation and if so, to what extent?

7. After framing the above issues, the Tribunal has taken into consideration the MCOPs, individually, and has arrived at the compensation. The Tribunal mainly has taken into consideration Ex.P.1 First Information Report,



12. In view of the above, this Court is of the considered opinion that the findings rendered by the Tribunal on negligence as well as on quantum are hereby confirmed as such, in addition to Pay and recovery issue.



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13. In the result, this Civil Miscellaneous Appeal is disposed of. No costs. The appellant / Insurance Company shall deposit the entire compensation amount, along with interests and costs, as awarded by the Claims Tribunal (at first), less the amount already deposited, if any, within a period of four weeks, from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the deposited amount to the Savings Bank Account of the claimants / injured / first respondent(s) in all CMAs herein, forthwith, through RTGS. It is needless to point out that the appellant herein is given liberty to recover the compensation amount to be paid from the owner of the vehicle / 2nd Respondent herein.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

srk / vrn

To

1. The Motor Accident Claims Tribunal / Subordinate Court
Krishnagiri

2. The Section Officer
V.R.Section
Madras High Court
Chennai 104

+3ccs to Mr.M.B.Gopalan,Advocate SR.No. 54641,54642,54643
C.M.A.Nos.2967,3202 and 3317 of 2003

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A.SK(03/10/2019)