

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

CMA.No.1781, 1782, 1783 and 1784 of 2005 and
MP No.9896, 9898 and 9899 of 2005

In CMA 1781 of 2005

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Coimbatore Division-II,
Erode. ... Appellant/3rd Respondent

Vs.

1. V.G.Sekar .. 1st Respondent/Claimant
2. S.Umadevi
3. The Oriental Insurance Company,
65, Jawahar Street, Yannam,
Pondicherry ... Respondents 2 & 3/
Respondents 1 & 2

In CMA 1782 of 2005

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Coimbatore Division-II,
Erode. ... Appellant/2nd Respondent

Vs.

1. D.John Samuel .. 1st Respondent/Claimant
2. Chandramohan
3. Narasimha
4. S.Umadevi
5. The Oriental Insurance Company,
65, Jawahar Street, Yannam,
Pondicherry ... Respondents 2 to 5/
Respondents 1,3 to 5

In CMA 1783 of 2005

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Coimbatore Division-II,
Erode.

... Appellant/3rd Respondent

Vs.

1. D.Ramesh

.. 1st Respondent/Claimant

2. S.Umadevi

3. The Oriental Insurance Company,
65, Jawahar Street, Yannam,
Pondicherry

... Respondents 2 & 3/
Respondents 1 & 2

In CMA 1784 of 2005

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Coimbatore Division-II,
Erode.

... Appellant/3rd Respondent

Vs.

1. Ramaswamy

.. 1st Respondent/Claimant

2. S.Umadevi

3. The Oriental Insurance Company,
65, Jawahar Street, Yannam,
Pondicherry

... Respondents 2 & 3/
Respondents 1 & 2

PRAYER

These Civil Miscellaneous Appeals have been filed under Section 173 of the Motor Vehicles Act, 1988, against the orders dated 30.07.2004 passed in M.C.O.P.No.1228/2001, 162/2002, 1231/2001 and 1237 of 2001 by the I Additional District Judge, Motor Vehicle Accidents Claims Tribunal, Erode.

For Appellant

: Ms.S.V.Vasanthakumar

For 3rd respondent in CMA 1781/05

1783/05 and 1784/05 and for

5th respondent in CMA 1782/2005 : Mr.J.Chandran

Respondents 1 and 2 in CMA 1781/05

1783/05 and 1784/05 and respondents

No.1 to 4 in CMA 1782 of 2005 : No appearance

COMMON JUDGMENT

The Tamil Nadu State Transport Corporation Limited, Erode has filed the present appeal questioning their liability to pay compensation to the claimants, who sustained injuries in a road accident that took place on 03.05.2001.

2. The brief facts of the case of the claimants are as follows. On 03.05.2001, the claimants were travelling as passengers in a bus bearing registration No.TN-33-N-0887 belonging to the State Transport Corporation Limited from Coimbatore to Erode. At about 00.30 hours, when the bus was nearing Sulur on Avinasi Road, a speeding lorry bearing registration No.B-Y-04 3434 belonging to the II respondent and insured with the III respondent, the National Insurance company limited, hit the bus, as a result of which, all the claimants sustained injuries. According to the claimants, the rash and negligent driving of the driver of the lorry was the cause of the accident and since the owner of the lorry had insured her vehicle with the Oriental Insurance Company Limited, Pondicherry, both of them are jointly and severally liable to pay compensation to them.

3. The owner of the lorry remained absent before the tribunal and the present appellant as well as the Oriental Insurance Company limited contested the claim petition.

4. The learned I Additional District Judge, Motor Accident Claims Tribunal, Erode while awarding compensation to the claimants had held that since there is a head on collision between the lorry and the bus, there is a composite negligence on the part of the drivers of the lorry and the bus and therefore, the compensation amount should be apportioned in the ratio 50: 50. Aggrieved over the orders passed by the tribunal, the Managing Director, Tamil Nadu State Transport Corporation Limited has filed the present appeal.

5. Mr.S.V.Vasanthakumar, learned counsel appearing for the appellant would contend that though the first information

report was registered against the driver of the lorry bearing registration No.B-Y-04 3434, the tribunal was wrong in fixing negligence on the part of the driver of the bus also belonging to the appellant.

6. Per contra, the learned counsel appearing for the claimants as well as the Oriental Insurance Company Limited would contend that the tribunal after considering the evidence on record, fixed the negligence on the part of both the drivers of the lorry and the bus and therefore, the appeal is liable to be dismissed.

7. In the instant case, though the first information report was registered against the driver of the lorry bearing registration No..B-Y-04 3434, all the claimants had clearly deposed that the driver of the bus bearing registration No.T-33-N-0887 belonging to the present appellant was also rash and negligent in driving his vehicle. This is a case of head on collision and therefore, fixing negligence in the ratio 50:50 on the part of the drivers of both the vehicles by the tribunal cannot be found fault with. I therefore, hold that the compensation awarded by the tribunal should be paid jointly and severally by the owner of the lorry and its insurer as well as the present appellant in the ratio 50:50.

8. As far as the quantum of compensation is concerned, no arguments were advanced by both the State Transport Corporation Limited and the Oriental Insurance Company Limited. A perusal of the award passed by the tribunal shows that it is not on the higher side. In fact, the tribunal after considering various aspects, had awarded just compensation to the claimants and therefore, the award passed by the tribunal is upheld.

9. In the result,

i) The civil miscellaneous appeal in CMA 1781 of 2005, CMA 1782 of 2005, CMA 1783 of 2005 and CMA 1784 of 2005 are dismissed. No costs. The connected miscellaneous petitions are closed.

ii) The orders passed by the tribunal is upheld.

Sd/-

Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

mst

To

1. The I Additional District Judge,
Motor Accident Claims Tribunal,
Erode.
2. The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Coimbatore Division-II,
Erode.
3. The Oriental Insurance Company,
65, Jawahar Street, Yannam,
Pondicherry.
4. S.Umadevi, Adavaipolam,
Yannam, Pondicherry.

Copy To

The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to Ms.S.V.Vasanthakumar, Advocate, S.R.No.7636

+1cc to Mr.J.Chandran, Advocate, S.R.No.7483

CMA.No.1781, 1782, 1783 and 1784 of 2005 and
MP No.9896, 9898 and 9899 of 2005

SV(CO)
CS/07/05/2019

सत्यमेव जयते

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