

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.3220 of 2008 and 3119 and 3120 of 2011  
and  
C.M.P.No.1725 of 2008 and M.P.No.1 of 2011

Branch Manager  
New India Assurance Co., Ltd.,  
No.66, W.B.Road,  
Trichy - 620 008. ... Appellant in all the C.M.A.'s

Vs.

1.Kalyani

2.S.Qrseeth

3.The Managing Director,  
State Express Transportation  
Corporation,  
Pallavan Salai,  
Chennai - 600 002. ... Respondents in C.M.A.No.3220 of 2008

1.Rajina Mary

2.S.Qrseeth

3.The Managing Director,  
State Express Transportation  
Corporation,  
Pallavan Salai,  
Chennai - 600 002. ... Respondents in C.M.A.No.3119 of 2011

1.M.Rabin Raj (Minor)  
Rep. by next friend father  
A.Martin

2.S.Qrseeth

3.The Managing Director,  
State Express Transportation  
Corporation,  
Pallavan Salai,  
Chennai - 600 002. ... Respondents in C.M.A.No.3120 of 2011  
(Minor first respondent rep. by her father A.Martin)

COMMON PRAYER: These Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 16.03.2005 made in M.C.O.P.Nos.243, 244 and 245 of 2004 on the file of the Motor Accident Claims Tribunal, Additional Special Court, Krishnagiri.

In all the C.M.A's

For Appellant : Mr.R.Siva Kumar

For Respondents : No Appearance

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

These Civil Miscellaneous Appeals have been filed against the common award dated 16.03.2005 made in M.C.O.P.Nos.243, 244 and 245 of 2004 on the file of the Motor Accident Claims Tribunal, Additional Special Court, Krishnagiri.

2.Since all the appeals arise out of the one and same accident and the common award, they are disposed of, by this common judgment.

3.The appellant is the insurance company and the claimant (s) are the first respondent(s) herein. In the accident that had occurred on 19.01.2004, all the claimants sustained injuries, for which, they filed MCOP Nos.243, 244 and 245 of 2004 seeking compensation of Rs.50,000/-, Rs.50,000/- and Rs.30,000/- respectively. The Tribunal considering the pleadings, oral and documentary evidence, awarded a sum of Rs.15,000/-, Rs.9,000/- and Rs.9,000/- respectively as compensation to the 1<sup>st</sup> respondent (s) / claimant(s). Questioning the liability fixed on the appellant /Insurance Company, the present appeals came to be filed.

4.Today, when the appeals are taken up for consideration, the learned counsel for the appellant /Insurance company fairly submitted that the appellant / Insurance company has already preferred a petition in CRP.(PD)No.3776 of 2011 against the award dated 16.03.2005 passed in MCOP.No.246 of 2004, arising out of the same accident and this Court dismissed the said revision petition vide order dated 16.08.2017, the relevant portion of which reads as follows:

"9. The contention of the learned counsel for the petitioner is that first respondent has stated that the accident occurred due to the rash and negligent driving by the driver of both the buses. The learned Judge has recorded that the first

respondent and other claimants have deposed that the accident occurred when the driver of the bus belonging to the second respondent suddenly came across the bus belonging to the third respondent and caused the accident. PWs 1 to 4 have deposed that the accident occurred due to the rash and negligent driving by the second respondent as the said bus came across the third respondent bus and caused the accident.

10. Further, the contention of the learned counsel for the petitioner that FIR was given by the driver of the bus belonging to the third respondent and Tribunal erred in accepting the same is untenable. The petitioner and the second respondent have not let in any evidence to show that they have objected to the version in the FIR as to how the accident occurred. In view of the same, the petitioner cannot find fault with the conclusion of the Tribunal. The Tribunal has given valid reason for the said finding and there is no irregularity or illegality in the order impugned in this revision warranting interference by this Court.

11. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed."

5. Since the issue involved herein has already been decided by this Court in the connected case in CRP (PD) No.3776 of 2011 dated 16.08.2017 as extracted above, the present Civil Miscellaneous Appeals are also decided on the similar lines.

6. Accordingly, all the appeals are dismissed. No costs. Consequently, the award passed by the Tribunal is confirmed. The appellant-Insurance Company is directed to deposit the entire award amount along with interest and costs, 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 shall transfer the same to the savings bank account of the first respondent(s)/claimant(s) through RTGS within a period of one week thereafter.

Sd/-  
Assistant Registrar (CS-V)

//True copy//

Sub Assistant Registrar

gbi

To

1.The Additional Special Judge,  
Motor Accident Claims Tribunal,  
Krishnagiri.

2.The Section Officer,  
V.R.Section,  
High Court,  
Madras.

+1cc to Mr.R.Siva Kumar, Advocate SR.No.58464

C.M.A.Nos.3220 of 2008 and 3119 and 3120 of 2011

MG(CO)  
GMY(14/11/2019)



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