

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.1443 to 1445 of 2009
and
M.P.Nos.1, 1 and 1 of 2009

United India Insurance Co.Ltd.,
Rep. by its Branch Manager
Namakkal. ... Appellant/3rd Respondents in
all the appeals

Vs.

1.T.S.Radhakrishnan
2.R.Sundar
3.R.Krishnamurthy

4.Managing Director,
Tamil Nadu State Transport Corporation,
Madurai Division V Ltd.,
Virudhunagar.

5.K.Palaniswamy ... Respondents in C.M.A.Nos.1443
and 1444 of 2009/ ...1 to 3
Petitioners/1&2nd Respondents

1.T.S.Radhakrishnan

2. Managing Director,
Tamil Nadu State Transport Corporation,
Madurai Division V Ltd.,
Virudhunagar.

3.K.Palaniswamy ...Respondents in C.M.A.No.1445 of 2009/
1st Petitioner / 1&2 Respondents

Common Prayer: These Civil Miscellaneous Appeals are filed under
Section 173 of Motor Vehicles Act, 1988, against the Judgment
and Decree dated 18.08.2004 made in M.C.O.P.Nos.469, 470 and 471
of 2003 on the file of Motor Accidents Claims Tribunal,
Principal District Court, Coimbatore.

C.M.A.Nos.1443 & 1444 of 2009

For Appellant : Mr.S.Arun Kumar

For Respondents : Mr.B.Nedunchezhiyan for R1 to R3
Mr.D.Venkatachalam for R4

In C.M.A.No.1445 of 2009

For Appellant : Mr.S.Arun Kumar

For Respondents: Mr.B.Nedunchezhiyan for R1
Mr.D.Venkatachalam for R2

COMMON JUDGMENT

The case of the claimants herein, in brief, is as follows:

On 13.06.2002 at about 11.30 p.m., the first respondent in CMA No.1443 of 2009 along with his wife and daughter, was travelling in the bus bearing Reg.No.TN-67-N-0141 belonging to the appellant Transport Corporation from Thirumangalam to Thenkasi. While the bus was proceeding near Nathampatti in Srivilliputhur District, the lorry bearing Reg.No.TN-28-C-4165 belonging to the fifth respondent and insured with the appellant Insurance Company in C.M.A.No.1443 of 2009, came in a rash and negligent manner from the opposite direction and both the bus and the lorry collided with each other. Due to the said impact, all the three sustained grievous multiple injuries and the wife and daughter of the first respondent in C.M.A.No.1443 of 2009 died on the spot. Three claim petitions have been filed before the Tribunal. MCOP No.469 of 2003 (C.M.A.No.1443 of 2009) was filed claiming compensation for the death of the wife of the injured, MCOP No.470 of 2003 (C.M.A.No.1444 of 2009) was filed claiming compensation for the death of the daughter of the injured and MCOP No.471 of 2003 (C.M.A.No.1445 of 2009) was filed claiming compensation for the injuries sustained by the injured. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.2,25,000/-, Rs.1,50,000/- and 1,15,000/- respectively, with interest at the rate of 9% per annum from the respective dates of the petitions.

2.Challenging the same, the appellant/Insurance Company has filed the present Civil Miscellaneous Appeals.

3.The learned counsel for the appellant Insurance Company has submitted that the Tribunal has erred in concluding that both the drivers of the vehicles are equally responsible for the accident in spite of the fact that the accident had occurred

only due to the rash and negligent driving of the driver of the bus. However, he has not disputed the quantum of compensation awarded by the Tribunal.

4.Per contra, the learned counsel appearing for the claimants as well as the learned counsel appearing for the Transport Corporation have submitted that the Tribunal has correctly considered the materials and evidence available on record and has passed the impugned judgment, which does not require any interference in the hands of this Court.

5.Heard the learned counsel for the appellant Insurance Company, learned counsel for the claimants and the learned counsel for the Transport Corporation and perused the materials and evidence available on record, carefully and meticulously.

6.The injured has been examined as P.W.1 before the Tribunal. He deposed before the Tribunal that both the bus and the lorry drivers were rash and negligent in their driving and there was head-on-collision between the two vehicles and hence both the drivers have contributed equally to the accident. It is seen that due to the accident, both the drivers of the vehicles died on the spot. This itself indicates that both the drivers were not careful and diligent in driving the vehicles. Even though it was put forth on behalf of the Insurance Company that the lorry driver was not responsible for the accident and similarly it was put forth on behalf of the Transport Corporation that the bus driver was not responsible for the accident to escape from their liabilities, considering the topography of the place of accident on the basis of Ex.P2-Rough Sketch and Ex.P1-First Information Report and the deposition of P.W.1, the Tribunal came to the conclusion that the accident had occurred due to the rash and negligent driving of the drivers of both the bus and the lorry. Observing so, the Tribunal has directed the owner of the lorry and the Insurance Company to pay 50% of the compensation jointly and severally and also directed the Transport Corporation to pay the remaining 50% of the compensation to the claimants. This Court is of the considered opinion that the Tribunal has analysed the materials and evidence in a proper perspective and has arrived at the above conclusion and hence the findings of the Tribunal on negligence and liability are confirmed.

7.Since the compensation amounts awarded by the Tribunal are not disputed by the learned counsel for the appellant, the same need not be interfered with by this Court.

8.In the result, the Civil Miscellaneous Appeals are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

9.The appellant/Insurance Company is directed to deposit the compensation amounts, as ordered by the Tribunal, after deducting the amounts if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar(CS)

//True Copy//

To Sub Assistant Registrar

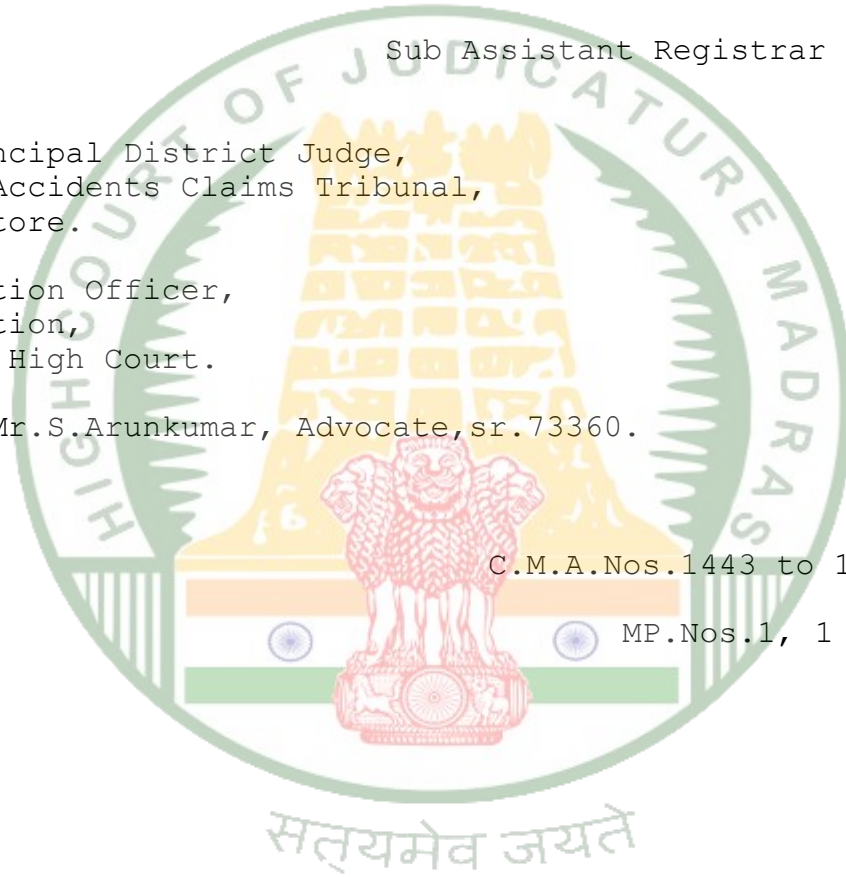
1.The Principal District Judge,
Motor Accidents Claims Tribunal,
Coimbatore.

2.The Section Officer,
VR Section,
Madras High Court.

+1 cc to Mr.S.Arunkumar, Advocate,sr.73360.

rji(co)
krd 18/9

C.M.A.Nos.1443 to 1445 of 2009
and
MP.Nos.1, 1 & 1 of 2009



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