

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.08.2019

Coram

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

C.M.A. Nos.1782 and 1783 of 2009

M.P.Nos. 1 and 1 of 2009

M/s ICICI Lombard General
Insurance Company Limited,
Chotabai Centre,
140, Nungambakkam High Road,
Chennai 34.

Appellant
in both CMAs/Respondent No.4

Vs

1.R.Indira Kumar

1st Respondent/Claimant
in CMA No.1782/2009

2.M/s.Parveen Travels Private Limited,
115/6, Santha Vellore Village,
S.V.Chathiram,
Sriperumbudur Taluk.

3.The New India Assurance
Company Limited,
68, P.H.Road, Purasawalkam,
Chennai 7
(Respondents 2 and 3 were given up
in the lower court)

4.R.Senthil Kumar
(Ex-parte in the lower court) Respondents 2 to 4/Respondents
No.1 to 3
in CMA.No.1782 of 2009

1.A.Madhan

...1st Respondent/claimant
in CMA No.1783/2009

2.M/s.Parveen Travels Private Limited,
115/6, Santha Vellore Village,
S.V.Chathiram,
Sriperumbudur Taluk.

3.The New India Assurance
Company Limited,
68, P.H.Road, Purasawalkam,
Chennai 7
(Respondents 2 and 3 were given up
in the lower court)

4.R.Senthil Kumar

(Ex-parte in the lower court)

Respondents 2 to 4
in CMA.No.1783 of 2009/Respondents 1 to 3

COMMON PRAYER: These Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicles Act against the Judgment and Decree dated 11.11.2008 passed by the Motor Accidents Claims Tribunal, IV Judge, Small Causes Court, Chennai in M.C.O.P. Nos.2117 and 2118 of 2007.

For Appellant

in both C.M.As

: Mrs.R.Sreevidhya

For Respondents

in both C.M.As.

: Mr.K.K.Dhandapani for R1

R2 & R3 - Given up

R4 - Exparte

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

The case in brief, is as follows:

On 05.01.2007, at about 12.30 noon, the first respondent in these appeals were travelling as passengers in the pick up van Tata ACE E2 bearing Registration No. TN10 M 7516 on the Kundrathur Main Road. When the van reached near L & T Company, the private bus bearing Registration No.TN21 H 9870 proceeding in the same direction, was suddenly stopped in the middle of the road without giving any signal. Due to the same, the said van proceeding from behind the bus, dashed against the bus. As a result of the same, the first respondent in these appeals have sustained grievous injuries. They filed separate claim petitions before the Tribunal for compensation to the injuries sustained. The Tribunal based on the weightage of evidence, probabilities of case, settled principles of law and the evidence and documents account has awarded a sum of Rs.1,03,500/- with interest at the rate of 9.5% per annum from the date of petition in respect of the first respondent in CMA No.1782 of 2009 and a sum of Rs.77,000/- with interest at the rate of 9.5% per annum from the date of petition in respect of the first respondent in CMA No.1783 of 2009, fixing the negligence on the part of the driver of the TATA Ace van.

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

3.The learned counsel for the appellant has submitted that the Tribunal has erred in coming to the conclusion that the accident had occurred due to the rash and negligent driving of the driver of the Tata Ace vehicle, when the fact remained that the driver of the private bus had stopped the bus suddenly without any signal on the middle of the road, which is the root cause for the accident. He also submitted that the compensation

awarded by the Tribunal is excessive.

4. The learned counsel for the first respondent in these appeals / claimants has submitted that the Tribunal has considered all the materials and evidence available on record and has rightly awarded the compensation to the claimants, which are just and reasonable and hence, the judgment of the Tribunal need not be interfered with by this Court.

5. Heard the learned counsel for the appellant Insurance Company and the learned counsel for the claimants and perused the records.

6. A perusal of the award of the Tribunal would go to show that the Tribunal has discussed in detail, about the details of Ex.P4 (First Information Report) with regard to the manner in which the accident took place. Further the Tribunal has taken note of the evidence of PW1 and Exs.P1 and P5 (Accident Registers), and came to the conclusion that the Tata Ace vehicle driver was responsible for the accident and accordingly fixed the liability on the appellant Insurance Company. This Court is of the opinion that the findings rendered by the Tribunal, on negligence purely matches with the evidence and documents on record and to controvert the same, new fact or evidence has not been adduced on the side of the appellant herein.

7. As far as the quantum of compensation arrived at by the Tribunal is concerned, in respect of M.C.O.P.No.2117 of 2007 (CMA No.1782 of 2009), sums of Rs.7,000/- Rs.5,000/-, Rs.5,000/-, Rs.1,500/-, Rs.35,000/- and Rs.50,000/- have been awarded towards Loss of earnings, Transportation, Extra nourishment, Medical expenses, Pain and suffering and Permanent disability, respectively. In respect of M.C.O.P.No.2118 of 2007, the Tribunal has awarded amounts towards Loss of earnings at Rs.4,000/-, Transportation at Rs.5,000/-, Extra nourishment at Rs.5,000/-, Medical expenses at Rs.3,000/-, Pain and suffering at Rs.20,000/- and Permanent disability at Rs.40,000/-. To arrive at such amounts, the Tribunal placed reliance on the evidence of PW.3/ Doctor, who has deposed before the Tribunal about the nature of injuries sustained by the claimant and the percentage of injuries suffered by them.

8. This Court is of the considered opinion that the compensation awarded by the Tribunal is reasonable, weightage of evidence and based on settled principles and the same are just, fair and reasonable.

9. In the result, the Civil Miscellaneous Appeals are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

10. The appellant Insurance Company is directed to deposit the compensation amounts with interest and costs, as ordered by the Claims Tribunal, less the amounts 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 first respondent in these appeals / claimants are permitted to withdraw the same, on making proper application before the Tribunal.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

vkr

To

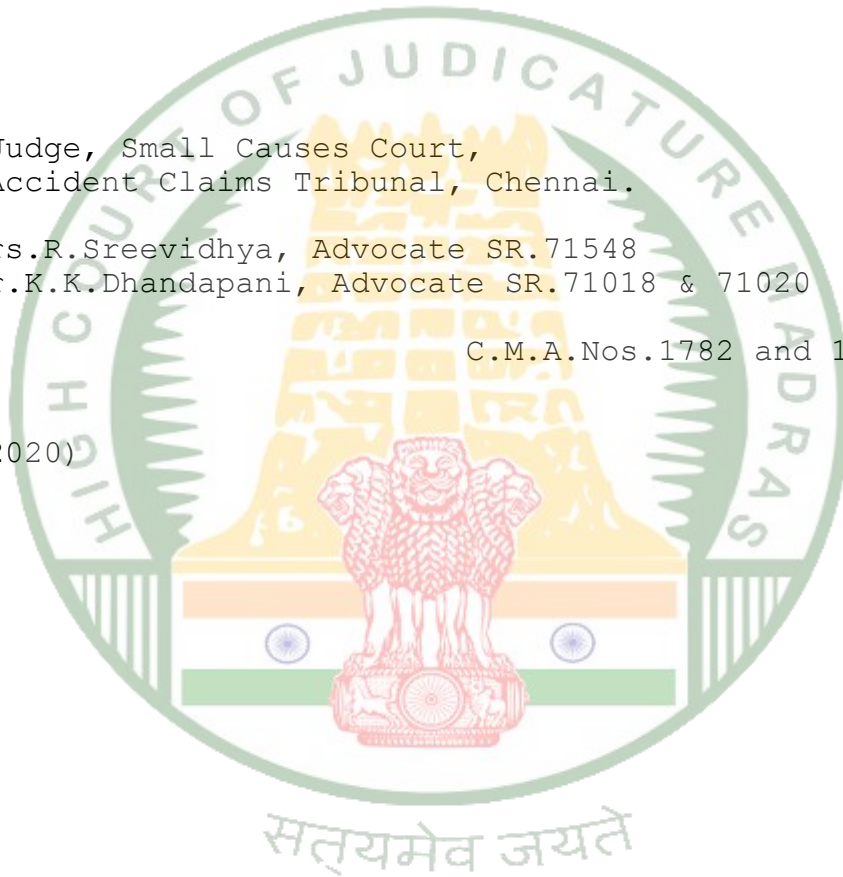
1.The IV Judge, Small Causes Court,
Motor Accident Claims Tribunal, Chennai.

+1cc to Mrs.R.Sreevidhya, Advocate SR.71548

+2cc to Mr.K.K.Dhandapani, Advocate SR.71018 & 71020

C.M.A.Nos.1782 and 1783 of 2009

TM(CO)
CB(12/06/2020)



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