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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.1934 of 2010

National Insurance Co. Ltd.,
Pondicherry.

...Appellant/3rd respondent

.Vs.

1.Ramakrishna Reddiar ...1st respondent/Claimant
2.Managing Director, ... 2nd Respondent/1st respondent
Tamil Nadu State Express Transport Corporation,
Chennai.
3.Jayakumaran ... 3rd respondent/2nd respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 27.01.2009 passed in MCOP.No.528 of 1998 on the file of the Motor Accident Claims Tribunal / II Additional Sub Court, Villupuram.

Appellant	: Mr.S.Vadivel
R1	: Mr.V.Murugesan
R2	: Mr.K.Kathiresan
R3	: No appearance

JUDGMENT

The appellant, National Insurance Company Limited is the third respondent in MCOP.No.528 of 1998 on the file of the Motor Accident Claims Tribunal / II Additional Sub Court, Villupuram. The first respondent / claimant filed the claim petition under Section 166 of the Motor Vehicles Act, 1988 seeking compensation of Rs.1,00,000/- for the injuries sustained by him in a road accident on 12.10.1996.

2. The case of the claimant is that on 12.10.1996, he was riding a Kawaski Bajaj motorcycle bearing Registration No. PY 01 E 6409 on Trichy - Chennai National Highways and at about 10.45 a.m, a speeding Tamil Nadu State Express Transport Corporation bus bearing Registration No. TN 01 N 6004 hit his motorcycle, as a result whereof, he fell down and sustained injuries all over his body.



3. According to the claimant, the rash and negligent driving of the driver of the bus belonging to the Tamil Nadu State Express Transport Corporation was the cause of the accident and therefore, they are liable to pay compensation.

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4. The owner of the motorcycle remained absent before the Tribunal and therefore, he was set exparte. The National Insurance Company and Tamil Nadu State Express Transport Corporation contested the claim petition. The learned II Additional Subordinate Judge / Motor Accident Claims Tribunal, Villupuram after analysing the evidence on record awarded a compensation of Rs.75,000/- together with interest at the rate of 7.5% per annum to the claimant and directed the Tamil Nadu State Express Transport Corporation and the National Insurance Company insurer of the two wheeler to pay the Award amount in the ratio 50 : 50. Aggrieved over the orders passed by the Tribunal, the National Insurance Company has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Mr.S.Vadivel, learned counsel appearing for the appellant contended that though the Tribunal in paragraph no.8 of its orders held that the driver of the bus was rash and negligent, however directed the Insurance Company and the Tamil Nadu State Express Transport Corporation to pay the Award amount in the ratio 50 : 50 in the result portion of the orders. He therefore prayed for setting aside the orders passed by the Tribunal.

6. The Tribunal after considering the oral and documentary evidence adduced on both sides had clearly held that the driver of the bus was rash and negligent. The Tribunal further held that no evidence was adduced on the side of the Tamil Nadu State Express Transport Corporation to show that the rider of the two wheeler was also negligent. The claimant who examined himself as P.W.1 had deposed that the driver of the bus was rash and negligent. Moreover, the conductor of the bus also had lodged the First Information Report with the Sub Inspector of Police, Vikravandi Police Station contending that the driver of the bus was rash and negligent. In the facts and circumstances, I hold that the Tamil Nadu State Express Transport Corporation is liable to pay the entire compensation amount to the claimant.

7. In the result,

(i) The Civil Miscellaneous Appeal is allowed. No costs.

(ii) The quantum of compensation awarded by the Tribunal is upheld.

(iii) The orders passed by the Tribunal directing the appellant / Insurance Company to pay 50% of the compensation amount is set aside.

(iv) The second respondent / Tamil Nadu State Express Transport Corporation is directed to deposit the entire



compensation amount awarded by the Tribunal i.e., Rs.75,000/- together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.528 of 1998 on the file of the Motor Accident Claims Tribunal / II Additional Sub Court, Villupuram within a period of four weeks from the date of receipt of a copy of this order.

(v) On such deposit being made, the 1st respondent / claimant is at liberty to withdraw the same after following due process of law.

(vi) The appellant / National Insurance Company is entitled to withdraw the amount already deposited by them, if any.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mtl

To

The Motor Accidents Claims Tribunal,
The II Additional Subordinate Judge,
Villupuram.

+1cc to M/s.K.Kathiresan, Advocate SR.No. 96896

+1cc to M/s.S.Vadivel, Advocate SR.No. 96872

CMA.No.1934 of 2010

RP(CO)

B.VC(12.08.2021)