

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED: 26.02.2019  
CORAM:  
THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN  
C.M.A.No.1454 of 2011 and  
M.P.No.1 of 2011

United India Insurance Co. Ltd.,  
Third Party Motor Claims Cell,  
No. 38, Anna Salai,  
Chennai - 2.

...Appellant/2<sup>nd</sup> Respondent

Vs.

1.Ponnusamy

.... Respondent-1/Petitioner

2.M.Jayaprakash

.... Respondent -2/Respondent-1

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and decree dated 19.06.2008 in M.C.O.P.No. 102 of 2005, on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Ponneri.

For Appellant : Mr.D.Bhaskaran  
For Respondents : No Appearance

JUDGMENT

This Civil Miscellaneous Appeal is filed by the United India Insurance Company Limited, challenging, the Judgment and decree passed in M.C.O.P.No. 102 of 2005, on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Ponneri.

2. The brief case of the first respondent/claimant is as follows:

On 27.12.2002, when the first respondent/claimant was proceeding from Tiruvallur to his native village Thervoy in a mahindra van bearing Registration No. TN 69 Y 0579, around 03.30 pm, on Periapalayam - Thamarapakkam road, near Putru Mariamman Koil at Vengai village, the driver of the said van drove the van at a high speed, in a rash and negligent manner and lost his control over the vehicle, as a result, the above van hit a man who was walking along the left side of the road with his cycle and got capsized and courted the accident. As a result, the first respondent/claimant sustained grievous injuries. The other occupants of the van were also grievously injured. All the injured persons were admitted and treated as inpatients in

the Government Stanley Hospital, Chennai. According to the first respondent/claimant, the rash and negligent driving of the driver of the said van was the cause of the accident, and that, since, the said van was insured with the present appellant, both the owner of the said van and the present appellant, are jointly and severally liable to pay compensation of Rs.1,50,000/- to him.

3. Before the Tribunal, the Insurance Company contended that the seating capacity of the said van is only 12. On the date of the accident, 18 persons were said to have been travelled in the said van. The learned Tribunal after going through the oral and documentary evidence produced, awarded a compensation of Rs.37,500/- together with interest at the rate of 7.5% per annum to the first respondent/ claimant. Aggrieved over the orders passed by the Tribunal, the United India Insurance Company have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. Heard both sides and perused the materials available on record.

5. It appears that the other two persons who have also travelled in the same vehicle have preferred CMA Nos. 1455 and 1456 of 2011 and the same have been disposed of on December 2016. It is an admitted fact that the seating capacity of the vehicle is 12 and the number of persons who have claimed compensation are within the permissible seating capacity. I am of the considered view, that, since the number of the persons who have claimed compensation is within the permitted seating capacity, the liability fixed on the Insurance Company is correct and it is hereby confirmed.

6. Quantum of compensation: the Tribunal has rightly considered the injuries sustained by the first respondent/claimant and assessed the disability as 20%. The Tribunal has awarded a sum of Rs.1,500/- per percentage of disability. Therefore, a sum of Rs.30,000/- was awarded under the head 'permanent disability' which cannot be treated excessive. The award passed by the Tribunal under the other heads are also just and reasonable and therefore, it warrants no interference.

7. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

(ii) The orders passed by the Tribunal in M.C.O.P.No. 102 of 2005 is hereby confirmed.

(iii) The present appellant - United India Insurance Company Limited is directed to deposit the entire compensation awarded

by the Tribunal i.e., Rs.37,500/- (if not already deposited) 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 M.C.O.P.No. 102 of 2005, on the file of the Motor Accidents Claims Tribunal, Subordinate Court, Ponneri within a period of eight weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made by the present appellant, the first respondent/claimant is at liberty to withdraw the same, after following due process of law.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

The Motor Accidents Claims Tribunal,  
Subordinate Judge,  
Ponneri

copy to:

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

+lcc to Mr.D.Bhaskaran, Advocate sr.18066

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