

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 22.04.2019

Judgment Delivered on : 06.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE RMT. TEEKAA RAMAN

C.M.A.No.2282 and M.P.No.1 of 2011
and
C.M.A.No.2283 of 2011 and M.P.No. 1 of 2011

The Divisional Manager,
The New India Assurance Co.Ltd.,
No.1, Bharathi Road,
Cuddalore - 607 001.

...Appellant in both C.M.As/Respondent

Vs.

Ansar

...1st respondent in C.M.A.No.2282 of 2011/
Petitioner in MCOP No.1913/2006

D.Veerapandian

....1st respondent in C.M.A.No.2283 of 2011

2.M.Balaguru

....2nd Respondent in both C.M.As/
(2nd respondent was set 1st Respondent in MCOP No.1913/2006
exparte before the Tribunal)

COMMON PRAYER: These Civil Miscellaneous Appeals filed under
Section 173 of the Motor Vehicles Act, 1988 against the Judgment
and decree dated 12.04.2010 in M.C.O.P.Nos. 1913 and 1914 of
2006, on the file of the Motor Accidents Claims Tribunal,
(Second Additional Sub-Court) at Cuddalore.

For Appellant

in both C.M.As : M/s.A.Salomi

For R1

in both C.M.As : Mr.R.Sreedhar

For R2

in both C.M.As : Exparte before the Tribunal

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

The Insurance Company has filed these appeals.
Challenging the award passed in M.C.O.P.Nos.1913 and 1914 of
2006 on the file of the Motor Accidents Claims Tribunal,
(Second Additional Sub-Court) at Cuddalore, on the ground of
liability, negligence and quantum.

2. Both the claim petitioners have filed the above claim petition alleging that while they were travelling in the cycle, which was driven by the first respondent in C.M.A.No.2283 of 2011 and the first respondent in C.M.A.No.2282 of 2011 was seated as a pillion-rider, a lorry owned by the first respondent before the Tribunal came in a rash and negligent manner and dashed against the cycle. Subsequently dashed the electric post and in the process, they sustained injuries and hence, claimed compensation.

3. The Insurance Company has stated that the vehicle is not involved in the accident and the Insurance Company is not liable to pay compensation.

4. Before the Tribunal P.W.1 to P.W.3 were examined and Exhibits P1 to P9 were marked. On behalf of the respondents, R.W.1 was examined and R1 to R3 were marked.

5. The Tribunal taking into consideration all the evidence has held that the accident has taken place due to the rash and negligent driving of the offending vehicle and on the date of the accident, the driver had valid driving licence and the policy was in-force and ordered payment of compensation in a sum of Rs.1,30,000/- to the claimant in M.C.O.P.No.1913 of 2006 and Rs.12000/- to the claimant in M.C.O.P.No.1914 of 2006.

6. The learned counsel for the Insurance Company would contend that the involvement of the vehicle was not proved in the manner known to law. Consequently, the Insurance Company is not liable to pay the compensation and there is no negligence on the part of the driver of the offending lorry and furthermore, compensation awarded by the Tribunal is also excessive.

7. Heard the learned counsel for the respondent/claimant.

8. It is seen from the evidence of P.W.1.Ansar-claim petitioner in M.C.O.P.No.1913 of 2006 and P.W.2-D.Veerapandian in M.C.O.P.No.1914 of 2006 that both of them were travelling in a cycle and the offending lorry driven by its driver in a rash and negligent manner dashed against the wall and dashed against the cycle. The Tribunal has accepted the version of P.W.1 and also held that as per Ex.R2, the Police who have registered case under Ex.P1 and after investigation has filed Ex.R2-charge sheet wherein, the driver of the offending lorry was charge sheeted and for causing grievous injury to P.W.1 and P.W.2 and the driver also pleaded guilty before the learned Judicial Magistrate No.III in S.T.C.No.340 of 2006 and he was convicted and he also paid the fine on 11.07.2006, as could be seen from Ex.R3. Thus, this Court finds that in view of the evidence of P.W.1 and P.W.2-the claim petitioners coupled with Ex.P1-F.I.R and Exhibits R2&R3, this Court finds that the involvement of the

offending lorry in the accident is proved in the manner known to law and as per Exhibits P3 and P4, the claim petitioners have suffered injuries in the said accident and hence, the contention raised by the learned counsel for the appellant cannot be accepted.

9. In view of the clear oral and documentary evidence as stated supra and also taking note of the fact that R.W.1 is not the occurrence witness, this Court is of the considered view that the finding of the Tribunal that the offending vehicle owned by the first respondent before the Tribunal is involved in the accident which has taken place due to the rash and negligent driving of the driver of the lorry and in the accident, the claim petitioners P.W.1 and P.W.2 have sustained injuries is hereby confirmed as the same does not suffer from any illegality or irregularity warranting interference at this appellate stage.

10. After perusing the evidence of P.W.3-Doctor and also Exhibits P4 to P9 and the Disability Certificate, I am of the considered view that the Tribunal had reasonably awarded compensation under the different heads and the same does not warrant interference.

11. In the result,

(i) This Civil Miscellaneous Appeals are dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

(ii) The order passed by the Tribunal is upheld.

(iii) The appellant-Transport Corporation is directed to deposit the entire amount awarded by the Tribunal together with costs and interest at the rate of 7.5% per annum and if not entirely deposited, the same be deposited after deducting the amount already deposited and the amount be deposited to the credit of M.C.O.P.Nos.1913 and 1914 of 2006 on the file of the Motor Accidents Claims Tribunal, (Second Additional Sub-Court), Cuddalore within a period of twelve weeks from the date of receipt of a copy of this order.

(iv) The claimants are permitted to withdraw the above amount, in the manner known to law.

Sd/-
Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

To

1.The Motor Accidents Claims Tribunal,
(Second Additional Sub-Court),Cuddalore.

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

+2cc to Mr.R.Sreedhar, Advocate SR.No.67307 & 67308

+2cc to Mr.C.Ramesh Babu, Advocate SR.No.67345 & 67346

C.M.A.No.2282 and M.P.No.1 of 2011and
C.M.A.No.2283 of 2011 and M.P.No. 1 of 2011

SPD (CO)
GMY (07/01/2020)



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