

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

C.M.A.Nos.2691 and 2692 of 2011

and

M.P.Nos.1 + 1 of 2011

C.M.A.No.2691 of 2011 :

The National Insurance Co. Ltd.,
Thirupur. ... Appellant/2nd Respondent

vs.

1.Perumal ... 1st Respondent/Petitioner
2.S.Mohan ... 2nd Respondent/Respondent
3.P.Prakash ... 3rd Respondent/3rd Respondent
4.The New India Assurance Co.Ltd.,
Kumaran Road,
Thirupur. ... 4th Respondent/4th Respondent

C.M.A.No.2692 of 2011 :

The National Insurance Co. Ltd.,
Thirupur. ... Appellant/2nd Respondent

vs.

1.M.Natarajan ... 1st Respondent/Petitioner
2.S.Mohan ... 2nd Respondent/Respondent
3.P.Prakash
4.The New India Assurance Co.Ltd.,
Kumaran Road,
Thirupur. ... Respondents 3&4

COMMON PRAYER: Civil Miscellaneous Appeals are filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 15.03.2011 made in M.A.C.T.O.P.Nos.182 and 183 of 2006 on the file of the Motor Accident Claims Tribunal (Fast Track Court No.2), Gobichettipalayam.

For Appellant : Mr.S.Vadivel
[in both appeals]

For Respondents : Mr.Ma.P.Thangavel
[for R1 in both appeals]
No Appearance for R2 to R4

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

The National Insurance Company / the appellant in both appeals, is the second respondent in M.C.O.P.Nos.182 and 183 of 2006 on the file of the Motor Accident Claims Tribunal, Fast Track Court No.2, Gobichettipalayam.

2. For the sake of convenience, the parties are referred to as per their ranking before the Tribunal and at appropriate places their ranks in the present appeals would also be indicated, if necessary.

3. The claimants filed the above MCOPs under Section 166 of the Motor Vehicles Act, 1988 seeking compensation for the injuries sustained them in a road accident on 20.01.2005.

4. The case of the claimants is that on 20.01.2005, they were travelling as passengers in an auto bearing Registration No.TN-39-AA-6895 on Kollupalayam - Karuthambatti road and at about 7.15 p.m., a speeding tempo van bearing Registration No.TN-39-V-8465 hit the auto, as a result of which, they sustained grievous injuries. According to the claimants, the rash and negligent driving of the driver of the tempo van belonging to the first respondent was the cause of the accident and that since the said tempo van was insured with the present appellant, the owner and the insurer are jointly and severally liable to pay the compensation. The claimants have also impleaded the owner and the insurer of the auto as respondents 3 and 4 in the claim petitions.

5. The learned Judge, Fast Track Court No.2, Gobichettipalayam, after analysing the evidence on record, fixed the negligence on the part of the drivers of the tempo van and the auto in the ratio 60:40 and awarded compensation of Rs.55,000/- and Rs.61,000/- together with interest at the rate of 7.5% per annum to the claimants in MCOP.Nos.182 of 2006 and 183 of 2006 respectively. Aggrieved over the orders passed by the Tribunal, the present appeals are filed by the National Insurance Company under Section 173 of the Motor Vehicles Act, 1988.

6. Mr.S.Vadivel, learned counsel appearing for the National Insurance Company in both the appeals contended that the Registration Number of the tempo van was not indicated in the First Information Report and that the Tribunal fixed negligence on the part of the driver of the tempo van to the extent 60% without considering the same. He therefore prayed for setting aside the orders passed by the Tribunal.

7. Heard Mr.Ma.P.Thangavel, learned counsel appearing

for the first respondent in both appeals. No appearance on behalf of the respondents 2 to 4 in both the appeals.

8. A perusal of the final report (Ex.P5) shows that the Inspector of Police, Karumathampatti Police Station, after full investigation, laid a final report before the learned Judicial Magistrate, Avinasi in S.T.C. No.2133 of 2005 against the driver of the tempo van bearing Registration No. TN-39-V-8465. It is also seen that the driver of the tempo was pleaded guilty of the offences punishable under Sections 279 and 338 of IPC. Apart from this, the Tribunal had also analysed the evidence adduced on both sides and rightly fixed the negligence on the part of the drivers of the tempo van and the auto in the ratio 60:40. All the observations made by the Tribunal are perfectly in order and therefore, I do not see any reason to interfere with the findings recorded by the Tribunal.

9. In the result,

(i) The Civil Miscellaneous Appeals are dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

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

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssn

To

1.The Motor Accidents Claims Tribunal,
Fast Track Court No.2,
Gobichettipalayam.

Copy to:

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

+1cc to M/s.Ma.P.Thangavel, Advocate SR.95071
+2cc to M/s.S.Vadivel, Advocate SR.94450, 94457

C.M.A.Nos.2691 and 2692 of 2011
and
M.P.Nos.1 + 1 of 2011

BS (CO)
CB(18/09/2020)