

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.2128 and 2129 of 2015
and M.P.Nos.1 and 1 of 2015

The Manager,
United India Insurance Co.Ltd.,
No.73/C, MTH Road
Ambattur,
Chennai-600 053. ... Appellant in both appeals

Vs

Ramesh ... 1st respondent in C.M.A.No.2128 of 2015
Govindammal ... 1st respondent in C.M.A.No.2129 of 2015
V.Senthilvadivel ... 2nd respondent in both appeals

C.M.A.No.2128 of 2015 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 11.04.2014 made in MCOP No.137 of 2011 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Tiruttani at Tiruvallur District.

C.M.A.No.2129 of 2015 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 11.04.2014 made in MCOP No.142 of 2011 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Tiruttani at Tiruvallur District.

For Appellant : Mr.J.Chandran

For Respondents : Ms.A.V.Bharathi for R2 in
both appeals

COMMON JUDGMENT

The case in brief, is as follows:

On 04.02.2010 at about 12.30 hours, the first respondent in both these appeals and others were travelling as passengers in the Auto-rickshaw bearing Reg.No.TN-20-M-9733 in the Nandhi River Bridge. At that time, the APE pick-up van bearing Reg.No.TN-20-L-5019 belonging to the second

respondent and insured with the appellant Insurance Company, came from behind in a rash and negligent manner and dashed against the Auto-rickshaw bearing Reg.No.TN-20-M-9733. Due to the said impact, the Auto-rickshaw bearing Reg.No.TN-20-M-9733 capsized and the passengers who had travelled in the said Auto-rickshaw sustained injuries. The first respondent in both these appeals filed claim petitions before the Tribunal claiming a sum of Rs.3,00,000/- each, as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.35,000/- with interest at the rate of 7.5% per annum from the date of petition, in respect of each of the claimants.

2.Challenging the same, the appellant Insurance Company has filed the present appeals.

3.The learned counsel for the appellant Insurance Company has submitted that the Tribunal has erred in coming to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the APE van. It is also submitted that the compensation awarded by the Tribunal is excessive and exorbitant.

4.The learned counsel for the first respondent in these appeals / claimants has submitted that the Tribunal has correctly considered the materials and evidence available on record and has awarded the just, fair and reasonable compensation and hence the same does not require any interference in the hands of this Court.

5.Heard the learned counsel for the appellant and the learned counsel for the claimants and perused the materials and evidence available on record carefully and meticulously.

6.The Tribunal has observed that the claimants have satisfactorily proved that the accident had occurred only due to the rash and negligent driving of the driver of the APE van, since it is clear from Ex.P1-First Information Report and Ex.P3-Charge Sheet that the police, after due investigation, registered the First Information Report against the driver of the van. This Court is not inclined to interfere with the said factual finding rendered by the Tribunal.

7.With regard to the quantum of compensation awarded by the Tribunal, the Tribunal has awarded a sum of Rs.25,000/- towards injuries, Rs.5,000/- towards pain and suffering, Rs.3,000/- towards extra nourishment and Rs.2,000/- towards transport expenses, totalling to Rs.35,000/- in each of the cases, holding that the injuries sustained by the claimants herein are simple in nature, in the absence of any evidence

to show that they sustained grievous injuries. The compensation awarded by the Tribunal in both these MCOPs are very reasonable and hence the same are confirmed.

8. In the result, the Civil Miscellaneous Appeals are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed. The appellant Insurance Company is directed to deposit the award amounts with interest, as ordered by the Tribunal, after deducting the amounts if any already deposited, within a period of six 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(CCC)

//True Copy//

Sub Assistant Registrar

KM

To

1. The Subordinate Judge,
Motor Accidents Claims Tribunal,
Tiruttani at Tiruvallur District.
2. The Section Officer,
VR Section,
Madras High Court.

+2cc to Mr.J.Chandra, Advocate, S.R.No.86828, 86829

+1cc to Mr.A.V.Bharathy, Advocate, S.R.No.86402

C.M.A.Nos.2128 and 2129 of 2015

and

M.P.Nos.1 and 1 of 2015

CNR(CO)

CB(14/08/2020)

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