

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving the Order	Date of Pronouncing the Order
05.03.2019	12.06.2019

CORAM:

THE HONOURABLE Mr.JUSTICE RMT.TEEKAA RAMAN

C.M.A.Nos.2914 and 2915 of 2011
and

M.P. Nos.1 and 1 of 2011

M/s. United India Insurance Co. Ltd.
Third Party Claim Cell
No.38, Anna Salai,
Chennai - 600 002. : Appellant (In both the cases)

Vs.

Sarala @ Sarala Devi
W/o. Pattabi : 1st Respondent (in CMA No.2914 of 2011)

K. Munusamy
S/o. Krishnan : 1st Respondent (in CMA No.2915 of 2011)

Para Venkateswaralu
S/o. Naraiah : 2nd Respondent (in both cases)

(R-2 remains set Ex-parte)

Common Prayer: Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree in M.C.O.P.Nos.4 & 88 of 2007 dated 24.02.2010 on the file of the Motor Accidents Claims Tribunal, (Sub-ordinate Judge) at Ponneri.

For Appellant : Mr.R. Ravichandran

For Respondent-1 : No appearance (In both cases)

For Respondent-2 : Ex-parte (In both Cases)

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

Since both Civil Miscellaneous Appeals are directed against the Judgment and Decree dated 24.02.2010 made in M.C.O.P.Nos.88 & 4 of 2007 on the file of the Motor Accidents Claims Tribunal, (Sub-ordinate Judge) at Ponneri (for brevity, "the Tribunal"), these appeals are disposed of by this Common Judgment.

2. These appeals have been filed by the Insurance Company questioning the liability of the Insurance Company and the quantum of compensation. The claimants in M.C.O.P. Nos.4 & 88 of 2007 are the first respondent in C.M.A.Nos.2914 & 2915 of 2011 respectively. Both the Claimants are injured in the accident alleging in the respective claim petitions that on 05.05.2006 at about 5.30. Hrs, the petitioners/claimants after finishing their agriculture work, they returned with their co-worker to their house in a tractor bearing Registration No.AP.02-C-8164. The Driver of the said Tractor drove in rash and negligence manner in which the said vehicle was upset at near Ayanellore Village Lake. The Petitioners were fell down from the tractor as a result they got fracture and sustained injuries. As such the Claimants are entitled to get compensation and the respondents are bound to pay compensation to the claimants.

3. Before the Tribunal, the injured were examined as P.W.1, Mr.Munuswamy, Claimant in M.C.O.P.No. 88 of 2007 and P.W.2, Mrs. Sarala/Claimant in 4 of 2007 as well as Mr. Thiyagarajan, Doctor was examined as P.W3. Ex.P1 to Ex.P15 were marked and no oral and documentary evidence on the side of the respondents.

4. After perusal of the oral and documentary evidence, the Tribunal has held that the accident has taken place due to rash and negligence driving of the driver of the first respondent's tractor and also held that due to injuries sustained by P.W.1, Mr. Munuswamy/Claimant in M.C.O.P. No.88 of 2007 and suffered amputation on the left leg below the hip, he was awarded a sum of Rs.2,08,500/- (Two Lakhs Eight Thousand and Five Hundred only) as compensation on various heads. P.W.2, Sarala/the claimant herein M.C.O.P. No.4 of 2007 has suffered serious injuries and she was awarded a sum of Rs.51,400/- (Rupees Fifty One Thousand and Four Hundred Only) as compensation on various heads. Hence, the appeals have been filed by the Insurance Company against the compensation awarded by the Tribunal.

5. The learned counsel appearing for the Insurance company would contend that tractor met in accident used for non-agricultural purpose and hence Insurance company is not liable to pay compensation. In view of the above, the Insurance Company has to be exonerated from the liability to pay compensation

whatsoever to the said injured/claimant. It is further contended that the compensation awarded by the Tribunal is excess to be paid to the claimants/appellants herein.

6. There is no appearance on the side of the first respondents in both the cases and the second respondent remained ex-parte in both the cases.

7. After going through the evidence placed on record, the finding rendered by the Tribunal that the accident had taken place due to rash and negligence driving of the driver of the first respondent's vehicle based upon the oral evidence of the P.W.1 and P.W.2 coupled with Ex.P1, First Information Report and Ex.P8, Court's Receipt for Fine, wherein the police have filed charge sheet before the Judicial Magistrate Court under Ex.P7 and driver of the tractor has paid the fine as could be seen from the Ex.P8. Hence the finding of the Tribunal, with regard to the factum and manner of the accident due to rash and negligence on the part of the driver of the first respondent vehicle is hereby confirmed and this Court does not warrant any interference at this stage. With regard to injuries sustained by P.W.1, and P.W.2. based upon Ex.P9 to Ex.P12, P.W.3, Doctor has issued permanent disability certificates to P.W.1, Munuswamy, and P.W.2, Sarala under Ex.P.13 and Ex.P14 respectively. On the appreciation of the evidence of the Doctor, P.W.3 coupled with Ex.P9 to Ex.P15, this Court finds that the percentage of the disability arrived by the Tribunal marked under Ex.P13, for the loss of the left leg to the Claimant, P.W.1/Munuswamy in C.M.A. No.2915 of 2011 does not warrant interference and also on considering the evidence placed before this Court, the disability certificate under Ex.P14 coupled with medical evidence of the P.W.3, Doctor, Thiagarajan, the compensation arrived at by the Trial Court at Rs.51,400/- cannot be found excess and false. Therefore, the same does not suffer from any irregularity and illegality warranting interference therein.

8. It is seen from the evidence that the injured/claimants and others along with the agricultural produce were taken in the Tractor engaged for the agricultural purpose, to the field for completion of the agricultural work. After completion of the grass work in the field, they were taken back in the tractor along with agricultural produce. Under these circumstances, I do not find any violation in the terms of insurance policy as rejected by the Insurance Company in both CMAs.

9. In view of the above, both the C.M.A Nos.2914 and 2915 of 2011 preferred by the Insurance Company is liable for rejection and hence the award passed by the Tribunal in M.C.O.P. Nos.4 & 88 are hereby confirmed. As per the finding of the

Tribunal, the Insurance Company is jointly and severally liable to pay compensation. Hence, the Insurance Company is directed to deposit the amount if any, within a period of two months from the date of receipt of copy of this Judgment as per the terms of the award passed by the Tribunal. The 1st respondents in both CMAs are directed to withdraw the award amount without filing any formal petition.

10. In the result, both the C.M.A. Nos.2914 and 2915 of 2011 are dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

Sd/-

Assistant Registrar(CS-VI)

// True Copy//

Sub Assistant Registrar

lbm

To

1.Motor Accidents Claims Tribunal,
(Sub-ordinate Judge) at Ponneri.

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

+1cc to Mr.R.Ravichandran, Advocate, SR.No.47975.

C.M.A.Nos.2914 and 2915 of 2011
and

M.P. Nos.1 and 1 of 2011

RK(CO)

CSR: 13.02.2020

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