

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.Nos.3084, 3085 & 3086 of 2012

Durai ...Appellant in C.M.A.No.3084 of 2012/Claimant

Minor Yeganathan ...Appellant in C.M.A.No.3085 of 2012/Claimant
(Rep. by his father Madhu)

Madhu ...Appellant in C.M.A.No.3086 of 2012/Claimant

vs.

1.V.Kandasamy
2.The Branch Manager,
Branch Office,
The Reliance General Insurance Co. Ltd.,
1st Floor, Gee Jay Arcade,
No.141/71, Thiruvenkatasamy Road West,
R.S.Puram,
Coimbatore. ... Respondents in all C.M.As/Respondents

COMMON PRAYER : Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 08.02.2012 passed in M.C.O.P.Nos.142, 206 & 207 of 2009 on the file of the Motor Accident Claims Tribunal / Additional Special Judge, Krishnagiri, Krishnagiri District.

In all C.M.As:

Appellant : Mr.E.Kannadasan

R1 : No appearance

R2 : Mr.S.Arunkumar

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

The appellants are the claimants in M.C.O.P.Nos.142, 206 & 207 of 2009 on the file of the Motor Accident Claims Tribunal / Additional Special Court, Krishnagiri, Krishnagiri District. They filed the above M.C.O.Ps seeking compensation of Rs.3,00,000/- each for the injuries sustained by them, in a road accident on 20.04.2008.

2. The parties are referred to as per their ranking in the claim petitions and at appropriate places, their ranks in the present appeals would also be indicated.

3. The case of the claimants in nutshell is as follows:

On 20.04.2008, the claimants were travelling as passengers in Government bus bearing Registration No. TN 27 N 1558 and they were proceeding towards Madheswaran Hill. At about 01.00 a.m, when the bus was nearing Seshampatty on Dharmapuri - Salem NH 7 Road, a speeding lorry bearing Registration No. TN 28 P 9636, hit the bus, as a result whereof, the claimants sustained injuries and they were immediately rushed to the Government Head Quarters Hospital, Dharmapuri.

4. According to the claimants, the rash and negligent driving of the driver of the lorry bearing Registration No. TN 28 P 9636 belonging to the first respondent was the cause of the accident and that since the said lorry was insured with the second respondent / Reliance General Insurance Company Limited, the owner of the lorry and the insurer are jointly and severally liable to pay compensation.

5. The owner of the lorry remained absent before the Tribunal and therefore he was set exparte. The second respondent / Reliance General Insurance Company Limited contested the claim petitions on all the grounds available to the insurer and the learned Additional Special Judge / Motor Accident Claims Tribunal, Krishnagiri, Krishnagiri District awarded compensation of Rs.10,000/- each to the claimants together with interest at the rate of 9% per annum to the claimants. Aggrieved over the orders passed by the Tribunal, the claimants have filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

6. Mr.E.Kannadasan, learned counsel appearing for the appellants relying on the wound certificates (Ex.P2, Ex.P5 and Ex.P6) contended that though the injuries sustained by the claimants are grievous in nature, the Tribunal had awarded meagre amount of Rs.10,000/- each to the claimants and therefore the compensation should be enhanced.

7. Per contra, Mr.S.Arunkumar, learned counsel appearing for the second respondent / Reliance General Insurance Company Limited drew the attention of this Court to the evidence of Dr.K.Selvam (R.W.1) the doctor, who treated the claimants, immediately after the accident on 20.04.2008 and contended that the injuries sustained by the claimants are simple in nature and the Tribunal after considering the evidence adduced on both sides had awarded just compensation of Rs.10,000/- to each of the claimants. He therefore prayed for dismissal of all the appeals.

8. A perusal of the wound certificates (Ex.P2, Ex.P5 and Ex.P6) shows that name of the Doctor who signed the certificates is not indicated. Moreover, the wound certificates are issued after four days of the accident and the claimants also did not examine the Doctor who issued the said wound certificates. On the contrary the second respondent / Reliance General Insurance Company Limited had examined the Doctor who gave treatment to the claimants, immediately after the accident and his evidence is clear about the nature of injuries sustained by the claimants. Considering the nature of the injuries, I hold that the Tribunal awarded just compensation to all the claimants and the same does not warrant interference by this Court.

9. In the result,

(i) The Civil Miscellaneous Appeals are dismissed. No costs.

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

(iii) Both the first respondent as well as second respondent / Reliance General Insurance Company Limited are directed to deposit the compensation awarded by the Tribunal i.e., Rs.10,000/- each to the claimants (less the amount 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.Nos.142, 206 & 207 of 2009 on the file of the Motor Accident Claims Tribunal / Additional Special Court, Krishnagiri, Krishnagiri District within a period of four weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the appellants / claimants are at liberty to withdraw their respective compensation, after following due process of law.

Sd/-

Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

mtl

To

1.The Motor Accidents Claims Tribunal,
The Additional Special Judge,
Krishnagiri District.

2. The Section Officer,
VR Section, High Court, Madras

+1cc to Mr.E.Kannadasan, Advocate SR.No.90788

+1cc to Mr.S.Arun Kumar, Advocate SR.No.90829

CMA.Nos.3084, 3085 & 3086 of 2012

SR(CO)
GMY(24/08/2020)