

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA
CMA.No.3502 of 2013
and
MP.No.1 of 2013

The Divisional Manager,
United India Insurance Co. Ltd.,
Motor Third Party Claim Office,
No.66-68, Gandhi Road,
Kancheepuram.Appellant

vs.

1.A.Amirtham
2.A.M.Munusamy Mudaliar
3.The Managing Director,
Tamil Nadu State Transport Corp. Ltd.,
Division - III, No.1&2,
Sheikpet Nadu Street,
Kancheepuram. Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 31.03.2010 passed in MCOP.No.249 of 2008 on the file of the Motor Accident Claims Tribunal / Subordinate Judge, Kancheepuram.

For Appellant : Mr.S.Arun Kumar

For Respondents: No appearance

J U D G M E N T

The Divisional Manager, United India Insurance Company, the second respondent in MCOP.No.249 of 2008 on the file of the Subordinate Judge, Kancheepuram has filed the present appeal. The first respondent / claimant filed the claim petition under Section 166-A of the Motor Vehicles Act, 1988 and Rule 3 of MACT Rules seeking compensation of Rs.1,00,000/- for the injuries sustained by her in a road accident on 30.11.2007.

2. The case of the claimant is that on 30.11.2007, she was travelling as a passenger in a bus bearing Registration No. TN

32 N 2034 belonging to the Tamil Nadu State Transport Corporation (third respondent), which was proceeding towards Tiruttani from Kancheepuram and at about 05.00 pm, a speeding bus bearing Registration No.AP 03 W 7575 hit the Government bus in which the claimant was travelling as a passenger, as a result whereof, the claimant sustained injuries all over her body.

3. According to the claimant, the rash and negligent driving of the driver of the bus bearing Registration No.AP 03 W 7575 belonging to Sri Bharathi Roadways (second respondent) was the cause of the accident and that since the said bus was insured with the appellant / United India Insurance Company, the owner and the insurer of the bus are jointly and severally liable to pay compensation.

4. The owner of the bus bearing Registration No.AP 03 W 7575 (second respondent) remained absent before the Tribunal and therefore, he was set exparte. All the other respondents contested the claim petition. The learned Subordinate Judge / Motor Accident Claims Tribunal, Kancheepuram while awarding a sum of Rs.58,065/- together with interest at the rate of 7.5% per annum to the claimant, also concluded that the driver of the second respondent bus was rash and negligent and exonerated the Tamil Nadu State Transport Corporation from paying compensation to the claimant. Aggrieved over the orders passed by the Tribunal, United India Insurance Company has filed the present appeal under Section 173 of the Motor Vehicles Act, 1988.

5. Heard Mr.S.Arun Kumar, learned counsel appearing for the appellant. No appearance on behalf of the respondents.

6. In the same accident, the persons who sustained injuries filed claim petitions before various Courts and in the appeals in those cases in CMA.Nos.1400 to 1403 of 2011, filed by the present appellant, a single bench of this Court held that the driver of the bus owned by the second respondent was rash and negligent and dismissed the appeals filed by the appellant / United India Insurance Company.

7. In the instant case, the Tribunal after considering the oral and documentary evidence on record, concluded that the driver of the second respondent was rash and negligent in driving the vehicle. All the observations made by the Tribunal are perfectly in order and therefore, I do not see any reason to interfere with the same.

8. In the result,

(i) The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

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

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

The Motor Accidents Claims Tribunal,
The Subordinate Court,
Kancheepuram.

Copy to

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

+1cc to M/s.S.Arunkumar, Advocate Sr.93461

CMA.No.3502 of 2013
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