

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.10.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.3371 and 3372 of 2019
and C.M.P.Nos.19679 and 19884 of 2019

N.Parthiban ... Appellant in both the appeals

Vs
V.Bhagya @ Sowbhagya ... 1st respondent in
C.M.A.No.3371 of 2019

Venkatesh ... 1st respondent in
C.M.A.No.3372 of 2019

The Branch Manager,
The Oriental Insurance Company Limited,
Dharmapuri. ... 2nd respondent in both the
appeals

C.M.A.No.3371 of 2019 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 28.04.2016 made in MCOP No.146 of 2014 on the file of the Motor Accidents Claims Tribunal cum Sub Court, Hosur.

C.M.A.No.3372 of 2019 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 28.04.2016 made in MCOP No.141 of 2014 on the file of the Motor Accidents Claims Tribunal cum Sub Court, Hosur.

For Appellant : Mr.P.Saravana Sowmiyan
in both appeals

For R2 in both : Mr.J.Chandran
appeals

COMMON JUDGMENT

The case in brief, is as follows:

On 16.06.2014, the first respondent in both these appeals were travelling in the private bus bearing Reg.No.KA-01-AA-0832 belonging to the appellant herein and insured with the second

respondent Insurance Company, from Anniyalam Village to Denkanikottai. The bus was driven by its driver in a rash and negligent manner. While the driver of the bus was taking right turn at Denkanikottai - Thally Road junction, the driver lost control over the bus due to high speed and the bus got capsized. Due to the said impact, many passengers who travelled in the bus got injured and one person died. The first respondent in these appeals were thrown out from the seat and sustained grievous injuries all over the body. The first respondent in C.M.A.No.3371 of 2019 filed a claim petition before the Tribunal claiming a sum of Rs.10,00,000/- as compensation. The first respondent in C.M.A.No.3372 of 2019 filed a claim petition before the Tribunal claiming a sum of Rs.20,00,000/- as compensation. On consideration of the materials and evidence available on record, the Tribunal awarded a total compensation of Rs.2,21,000/- with interest at the rate of 7.5% per annum from the date of petition in respect of the first respondent in C.M.A.No.3371 of 2017 and a total compensation of Rs.18,27,000/- with interest at the rate of 7.5% per annum from the date of petition in respect of the first respondent in C.M.A.No.3372 of 2017. The Tribunal has also given a finding that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the appellant. Since the driver of the bus was not possessing the valid driving licence to drive the bus and there was violation of policy conditions, the Tribunal directed the Insurance Company to pay the compensation and thereafter recover the same from the owner of the vehicle / appellant.

2.Challenging the same, the owner of the vehicle has come up with the present appeals.

3.When these appeals were taken up, the learned counsel for the second respondent Insurance Company has produced a copy of the common judgment of this Court dated 26.08.2019 made in C.M.A.Nos.3132 to 3137 of 2019, relating to the same accident and submitted that the present appeals have to be dismissed as the same are squarely covered by the said judgment.

4.This Court has perused the common judgment passed by this Court dated 26.08.2019 in C.M.A.Nos.3132 to 3137 of 2019. The said judgment has been passed in respect of various claims made by the claimants therein, relating to the same accident involved in the present appeals. This Court has analysed the matter in detail and rejected the contention put forth on the side of the appellant that he came to know the occurrence of the accident only in the year 2018 that too through his employee. This Court also held that negligence on the part of the driver of the bus was also very much proved through the evidence of R.W.1 and R.W.2. This Court has also observed that the appellant has not

produced any proof for his contention that the claims were made by the claimants by colluding with the Insurance Company and dismissed those appeals, confirming the awards passed by the Tribunal.

5. In view of the above, the Civil Miscellaneous Appeals are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

6. Since this Court, in the common judgment dated 26.08.2019 in C.M.A.Nos.3132 to 3137 of 2019, has directed the Tribunal to execute the execution petitions filed by the Insurance Company as against the appellant for recovery of the award amounts therein, a similar direction is given in the present appeals also directing the Tribunal to execute the petitions if pending, within a period of one month from the date of receipt of a copy of this judgment and report the same.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The Motor Accidents Claims Tribunal
cum Sub Court, Hosur.

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

+1cc to M/s.R.Saravana Sowmiyan, Advocate Sr.84357

C.M.A.Nos.3371 and 3372
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and
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srg 05/06/2020