

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2019

CORAM:

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

CMA.No.2295 of 2014

M/s.Iffco Tokio General Insurance Co. Ltd.,  
No.28 (Old No.195), 1<sup>st</sup> & 2<sup>nd</sup> Floor,  
North Usman Road, T.Nagar,  
Chennai - 600017. ....Appellant/4<sup>th</sup> Respondent

.Vs.

1.Mr.Mohanraj .....1<sup>st</sup> Respondent/Petitioner  
2.M.S.K.Selvakumar

3.The Branch Manager,  
M/s.United India Insurance Co. Ltd.,  
The Branch Office,  
No.14/1-77B, Salem Main Road,  
Puduchampalli, Mettur Dam - 636 403.

4.M.R.Nandakumar ... Respondents 2 to 4/Respondents 1 to 3

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the decree and Judgment dated 30.04.2013 passed in MCOP.No.247 of 2013 on the file of the Motor Accident Claims Tribunal / Special Subordinate Court, Krishnagiri.

For Appellant : Mr.N.Vijayaraghavan

For Respondents : Mrs.I.Malar for R3

No appearance for RR1, 2 & 4

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JUDGMENT

The appellant, Iffco Tokio General Insurance Company Limited is the fourth respondent in MCOP.No.247 of 2013 on the file of the Motor Accident Claims Tribunal / Special Subordinate Court, Krishnagiri has filed the present appeal questioning the quantum of compensation awarded by the Tribunal.

2. The case of the claimant is that On 15.07.2007, he was travelling as a load man in a Eicher Canter Mini lorry bearing Registration No.TN-67-R-1854 from Krishnagiri to Chennai. At about 11.30 pm, a speeding bus bearing

Registration No.TN-30-X-0550 belonging to the second respondent which was proceeding ahead, suddenly applied brakes as a result of which the lorry hit the bus and the claimant sustained injuries all over his body. The specific contention of the claimant is that the accident took place due to the rash and negligent driving of the driver of the bus bearing Registration No.TN-30-X-0550 belonging to the second respondent and that since the said bus was insured with the third respondent, United India Insurance Company Limited, both of them are jointly and severally liable to pay compensation.

3. The first and third respondents remained absent before the Tribunal and therefore, they were set ex-parte. The Motor Accidents Claims Tribunal / Special Subordinate Judge, Krishnagiri after analysing the evidence on record, awarded a compensation of Rs.1,44,800/- to the claimant. Further, the Tribunal also concluded that the driver of the bus bearing Registration No.TN-30-X-0550 was rash and negligent in driving his vehicle. However, in the result portion of the orders he had directed all the respondents to pay the compensation jointly and severally together with interest at the rate of 6% per annum. Aggrieved over the orders passed by the Tribunal, the Iffco Tokio General Insurance Company Limited has preferred the present appeal under Section 173 of the Motor Vehicles Act, 1988.

4. No appearance on behalf of the respondents 1, 2 & 4.

5. Mrs.I.Malar, learned counsel appearing for the third respondent, United India Insurance Company Limited contended that since the driver of the bus was also rash and negligent in driving his bus 50% should be paid by the Iffco Tokio General Insurance Company Limited also.

6. It is pertinent to point out that no appeal has been filed by the United India Insurance Company Limited against the orders passed by the Tribunal.

7. As already observed, the Tribunal had come to the conclusion that the driver of the bus bearing Registration No.TN-30-X-0550 was rash and negligent in driving his vehicle. However in the result portion of the orders made by the Tribunal, it directed all the respondents to pay jointly and severally. Therefore, a mistake has been committed by the Tribunal, in the final part of its verdict and the same warrants interference by this Court.

8. In the result,

(i) The Civil Miscellaneous Appeal is allowed. No costs.

(ii) The third respondent, United India Insurance Company Limited is directed to deposit the entire award amount of Rs.1,44,800/- (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 MCOP.No.247 of 2013 on the file of the Motor Accident Claims Tribunal / Special Subordinate Court, Krishnagiri within a period of four weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made, the claimant / 1<sup>st</sup> respondent is at liberty to withdraw the same after following the due process of law. .

Sd/-

Assistant Registrar(CS-VIII)

//True copy//

Sub Assistant Registrar

mtl

To

The Motor Accidents Claims Tribunal,  
The Special Subordinate Judge,  
Krishnagiri.

Copy To  
The Section Officer,  
VR Section, High Court, Madras-104

+1cc to Mr.N.Vijayaraghavan, Advocate SR.No.84122

+1cc to Mr.T.Ravichandran, Advocate SR.No.83592

CMA.No.2295 of 2014

BS (CO)  
GMY (21/07/2020)

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