

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 22.10.2019
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.841 to 844 of 2017 and
C.M.P.Nos.4250 to 4252 of 2017

Pachaiammal ... Appellant in C.M.A.No.
841 of 2017

Suresh ... Appellant in C.M.A.No.
842 of 2017

Sundaram ... Appellant in C.M.A.No.
843 of 2017

Periyasamy ... Appellant in C.M.A.No.
844 of 2017

Vs

1.R.Rajeswaran

2.The Branch Manager,
The New India Assurance Co.Ltd.
163, Madanagopalapuram
Perambalur-621 212. ... Respondents in all
the appeals

CMA No.841 of 2017 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 20.08.2003 made in MACTOP No.596 of 2002 on the file of the Motor Accidents Claims Tribunal (District Court), Perambalur.

CMA No.842 of 2017 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 20.08.2003 made in MACTOP No.603 of 2002 on the file of the Motor Accidents Claims Tribunal (District Court), Perambalur.

CMA No.843 of 2017 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 20.08.2003 made in MACTOP No.604 of 2002 on the file of the Motor Accidents Claims Tribunal (District Court), Perambalur.

CMA No.844 of 2017 filed under Section 173 of the Motor Vehicles Act against the judgment and decree dated 20.08.2003 made in MACTOP No.599 of 2002 on the file of the Motor Accidents Claims Tribunal (District Court), Perambalur.

For Appellant : Mr.P.Mani
in all appeals

For Respondents : Mr.Neethi Perumal for R2
in all appeals

COMMON JUDGMENT

The case in brief, is as follows:

On 01.02.2002 at about 08.15 a.m. in the Ramanathapuram - Chennai Main Road, when the appellants herein were travelling in the mini lorry bearing Reg.No.TN-45-K-216 belonging to the first respondent and insured with the second respondent herein, due to the rash and negligent driving of the lorry driver, the lorry met with an accident and in the said accident, the appellants / claimants have sustained injuries. They filed claim petitions before the Tribunal claiming compensation for the injuries sustained by them. The Tribunal, on consideration of the materials and evidence available on record, awarded a total compensation of Rs.45,800/- to the appellant / claimant in C.M.A.No.841 of 2017 and a sum of Rs.30,000/- each to the claimants in C.M.A.Nos.842 to 844 of 2017, with interest at the rate of 9% per annum from the respective dates of petitions. The compensation amounts have been directed to be paid by the first respondent / owner of the vehicle, thus exonerating the liability on the part of the Insurance Company, by the Tribunal.

2.Challenging the same, the appellants-claimants have filed the present Civil Miscellaneous Appeals.

3.The learned counsel for the appellants/claimants has submitted that both the owner of the vehicle as well as the Insurance Company are liable to pay compensation as admittedly premium has been paid for non-fare passengers numbering 7. It is also submitted that the compensation amounts awarded by the Tribunal are meagre not in consonance with the injuries suffered by the appellants / claimants and hence the same requires enhancement.

4.The learned counsel for the second respondent Insurance Company has submitted that the Tribunal has rightly considered the materials and evidence available on record and while awarding the compensation, rightly exonerated the Insurance Company of the liability to pay compensation, and hence the judgment of the Tribunal does not require any interference in the hands of this Court.

5.Heard the learned counsel for the appellant and the learned counsel for the second respondent Insurance Company and perused the materials available on record carefully and meticulously.

6. In respect of the claim made by an injured in CMA No.2050 of 2005, relating to the same accident as in the present cases, this Court, after hearing both sides, passed the judgment on 09.11.2016 holding that since the policy covers 7 non-fare paying passengers and according to the policy conditions, 7 non-fare passengers can travel and since no appeal was filed by other passengers, the claimant therein has to be construed as a non-fare paying passenger in the mini lorry, and accordingly he is entitled for compensation from the Insurance Company. The same analogy applies to the present cases, since the claim made therein, relates to the same accident. Hence, the second respondent Insurance Company is liable to pay compensation to the appellants / claimants in the present cases.

7. With regard to the quantum of compensation awarded by the Tribunal, the Tribunal has awarded the just, fair and reasonable compensation, in consonance with the injuries suffered by the claimants, by properly considering the materials and evidence, and hence the compensation awarded by the Tribunal in respect of these appeals, does not require any enhancement by this Court.

8. In the result, while confirming the quantum of compensation awarded by the Tribunal in all these cases, the second respondent / Insurance Company is directed to pay the award amounts with interest as ordered by the Tribunal, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the appellants / claimants are permitted to withdraw the same, on making proper application before the Tribunal.

9. The Civil Miscellaneous Appeals are disposed of accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

KM

To

1. The District Judge,
Motor Accidents Claims Tribunal, Perambalur.

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

+4ccs to Mr.P.Mani , Advocate SR.No. 88195 to 88198

C.M.A.Nos.841 to 844 of 2017
and C.M.P.Nos.4250 to 4252 of 2017

A.SK(10/03/2020)