

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2020

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.M.A.No.3455 of 2009
and
M.P.No.1 of 2009
(Through Video Conferencing)

Divisional Manager,
The National Insurance Co. Ltd.,
Bhavani Taluk,
Erode District. Appellant

Vs.

1. R.Elumalai
2. P.Senthil
3. N.M.Ponnusamy
4. Branch Manager,
The State Transport Corporation,
Kancheepuram, (Division-III) Respondents

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988 against the award and decree in M.C.O.P.No.393 of 2001, dated 17.03.2009, on the file of the Motor Accidents Claims Tribunal, Sub Ordinate Judge's Court, Cheyyar.

For Appellant : Mr.S.Arunkumar

For Respondents:

For R1 : Mr.K.G.Senthil Kumar
For R2 & R3 : Not ready in notice
For R4 : Mr.C.S.K.Sathish

JUDGMENT

The Insurance Company is the appellant in this appeal and is aggrieved by the impugned Judgment and Decree dated 17.03.2009 passed by the Motor Accidents Claims Tribunal (Sub Ordinate Judge's Court, Cheyyar) in M.C.O.P.No.393 of 2001.

2. By the impugned Judgement and Decree, the Tribunal has awarded a sum of Rs.1,25,564/- by fixing 50% of the responsibility on the appellant being an insurer of the lorry and 50% on the State Transport Corporation.

3. In this appeal, the appellant Insurance Company has challenged the fixing of liability on it and states that the

State Transport Corporation was solely responsible for the accident. It is further submitted that the Tribunal failed to note that the driver of the State Transport Corporation bus has also driven the bus without following the traffic rules.

4. I have considered the arguments advanced on behalf of the learned counsel for the Appellant and the fourth respondent State Transport Corporation.

5. The Tribunal has held that, both the insured lorry and the State Transport Corporation bus were responsible for the accident and has thus correctly arrived on the liability. I do not find any merits in the present appeal.

6. If the amount of compensation awarded by the Tribunal has not been deposited by the appellant Insurance Company, it is directed to deposit the same together with interest at 7.5% per annum from the date of filing of the claim petition till the date of such deposit, less the amount already deposited if any, within a period of six weeks from the date of receipt of the copy of this Judgment.

7. On such deposit, the first respondent/claimant is entitled to withdraw the same together with interest as directed by the Tribunal, less if any amount already withdrawn by filing suitable application before Tribunal.

8. This Civil Miscellaneous Appeal is dismissed with the above observation. No cost. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

arb

To:

The Motor Accidents Claims Tribunal,
Subordinate Judge's Court,
Cheyyar.

+lcc to Mr.S.Arunkumar, Advocate, S.R.No. 26930

+lcc to Mr.C.S.K.Sathish, Advocate, S.R.No. 27146

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and

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