



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.M.A.No.1055 of 2012

and

MP.Nos.1 & 2 of 2010

United India Insurance Co.Ltd.,
50-A, Palli Vasal Street,
Perambalur District.

... Appellant/2nd Respondent

Vs.

Natarajan (Died)

1.Machagandhi

2.Umamaheswari

3.Valli

4.Chandrabalan

5.Jayabalan

6.Anjulatcham

7.Baskaran

... Respondent 1 to 6/Petitioners

... 1st Respondents

(R7 set ex-parte before the Tribunal.

Hence, notice may be dispensed with)

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree made in MCOP.No.712 of 2004 on the file of the Motor Accident Claims Tribunal (Principal Subordinate Judge) Villupuram dated 05.08.2011.

For Appellant : Mrs.I.Malar

For Respondents : Mr.N.Suresh for R1 to R6

R7- Ex-parte

J U D G M E N T

The appellant/United India Insurance Co Ltd. has preferred this present appeal, challenging the judgment and decree passed by the Motor Accident Claims Tribunal, Principal Subordinate Judge, Villupuram in MCOP.No.712 of 2004.

2. The case of the claimant is that on 09.07.2004 at about 22.45 hours, when he was engaged on duty in driving Tamilnadu State Transport Corporation bus bearing Regn.No.TN-01-N-6784 from Pondicherry to Coimbatore, near Karadipakkam branch road, a



vehicle bearing Regn.No.TN-45-W-4622 was driven by it's driver in the opposite direction and in a rash and negligent manner and dashed against the Transport Bus, in which, the claimant was driving, at the time of accident. Due to the said impact, the Transport bus rolled down from the bridge to the river bed. As a result, the claimant and other passengers sustained grievous injuries.

3. During the pendency of the claim petition, the claimant herein had died and his legal heirs have been brought on record as respondents 1 to 6.

4. In order to prove the case of the claimant before the Tribunal, P.W.1 and P.W.2 were examined and Ex.P1 to P18 were marked. During the trial, on the side of the second respondent, R.W.1 was examined and Ex.R1 to Ex.R6 were marked.

5. Based on the evidences both oral and documentary, the Tribunal has held that the accident has taken place, on account of the rash and negligence driving of the driver of the vehicle bearing Regn.No.TN-45-W-4622 and awarded a sum of Rs.4,40,000/- as a compensation, payable by the Insurance Company. Challenging the same, the present appeal has been filed by the Insurance Company.

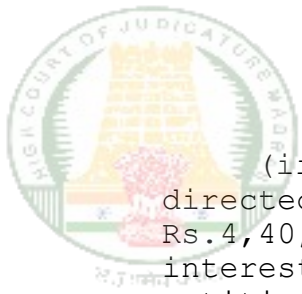
6. Heard the learned counsel for the appellant as well as the learned counsel for the respondents No.1 to 6 and perused the materials available on record.

7. From the materials available on record, it is seen that the respondents have deposed the manner of accident by which the accident took place. It clearly shows that if the driver has carefully driven the lorry, the accident would not have taken place. The Tribunal considering the entire materials on record held that the accident occurred due to the rash and negligent driving of the lorry driver. The appellant has not let in any evidence to disprove the contention of the respondents. Considering the nature of injuries, the Tribunal has awarded the compensation which is not excessive. There is no error warranting interference by this Court.

8. In the result,

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

(ii) The compensation awarded by the Tribunal is confirmed hereby.



(iii) The appellant/United Insurance Company Limited is directed to deposit the compensation awarded by this court Rs.4,40,000 (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.712 of 2004 on the file of the Motor Accidents Claims Tribunal / Principal Subordinate Judge, Villupuram, within a period of six weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the respondents/legal heirs are at liberty to withdraw the same as per the orders passed by the Tribunal after following due process of law. The apportionment made by the Tribunal shall be kept intact.

Sd/-

Assistant Registrar(CS V)

Dt 25/03/2021

//True Copy//

Sub Assistant Registrar

sbn

To

1. The Motor Accident Claims Tribunal
Principal Subordinate Judge,
Villupuram.

Copy to

The Section Officer,
V.R.Section,
High Court, Madras.

+1cc to Mr.T.Ravichandran, Advocate, S.R.No.8667
+1cc to Mr.N.Suresh, Advocate, S.R.No.8321

C.M.A.No.1055 of 2012
and MP.Nos.1 & 2 of 2010

GI (CO)
HS(11/08/2021)