

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.NOS.2393 & 2394 OF 2012

AND

M.P.NOS.1 & 1 OF 2012

National Insurance Co. Ltd.,
No.312, 1st Floor, J.N.Street,
Puducherry.

... Appellant in both CMAs/
3rd Respondents

...Vs...

Kalaiarasan

... 1st respondent in CMA.No.2393 of 2012/
Petitioner

Arul

... 1st respondent in CMA.No.2394 of 2012/
Petitioner

2.S.Baskaran

3.N.Gopu

... 2nd & 3rd respondents in both CMAs/
1 & 2 Respondents

Common Prayer:

Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the awards and decrees both dated 20.04.2012 made in O.P.Nos.1126 & 1127 of 2006 on the file of the Motor Accident Claims Tribunal (Principal District Judge) at Puducherry.

For Appellant in both CMAs : Mr.D.Bhaskaran

For Respondent 3 in both CMAs : No appearance

R1 & R2

- not ready in notice

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COMMON JUDGMENT

(These Appeal have been taken up for hearing through Video Conferencing)

These appeals have been filed by the appellant insurance company challenging the common award passed by the Motor Accident Claims Tribunal (Principal District Judge, Puducherry) in MCOP.Nos.1127 & 1127 of 2006.

2. MCOP.No.1126 of 2006 was filed by the first respondent in CMA.No.2393 of 2012 and MCOP.No.1127 of 2006 was filed by the first respondent in CMA.No.2394 of 2012. The respective first respondents in both the appeals sustained injuries as a result of an accident caused by the insured delivery van bearing registration No.PY01-M-2821. The said delivery van is insured with the Appellant and owned by the second and third respondents.

3. The Appellant has filed these appeals both on the ground of its liability to pay the compensation and they have also challenged the quantum of compensation awarded to the respective first respondents in these appeals.

4. Heard Mr.D.Bhaskaran learned counsel for the Appellant. Despite service of notice on the third respondent, there is no representation on the side of the third respondent. Since this Court is going to confirm both the Awards, the notice to the first and second respondents in both the appeals are dispensed with.

5. This Court has perused and examined the materials and evidence available on record before the Tribunal. It is the contention of the Appellant that it is the road roller which collided with the delivery van insured with the Appellant which is liable to compensate the respective claimants as according to them, only due to the rash and negligent driving by the said road roller, the accident had happened.

6. This Court has perused and examined the evidence of PW1, PW2, RW1 and RW2 as well as Ex.A1 to Ex.A15 marked through respective claimants as well as Ex.B1 to Ex.B5 marked through Appellant insurance company.

7. Admittedly under the impugned award, the Tribunal has observed that the delivery van which is insured with the Appellant is the sole cause for the accident as it is a fast moving vehicle, whereas the road roller is a slow moving vehicle. The Tribunal has rightly observed that it is not possible for the road roller which is a slow moving vehicle to have caused the accident due to the rash and negligent driving by its driver. In the absence of any substantial material or evidence to show that the road roller was at fault, the Tribunal has rightly mulcted the entire liability on the appellant insurance company which is the insurer for the delivery van. Even the evidence of RW2 is only hear say evidence and he was not an eye-witness to the accident and therefore, the Tribunal has rightly rejected his evidence. After considering the overall evidence available on record, the Tribunal has rightly rejected the contention of the Appellant insurance company.

8. Therefore insofar as the first ground raised by the Appellant in these Appeals are concerned, namely that they are not liable to compensate the claimant, the said contention is rejected by this Court as rightly held by the Tribunal. Insofar as the quantum of compensation awarded by the Tribunal to the respective claimants in both the appeals are concerned, this Court finds the same to be reasonable and just compensation.

9. The details of the compensation awarded to the claimant in MCOP.No.1126 of 2006 are as follows:

Sl.No.	Heads	Amount
1	Nature of injury & the period of treatment	25,000/-
2	Permanent Disability	45,000/-
3	Medical & Travelling expenses	5,000/-
	Total	75,000/-

10. The Tribunal has awarded a sum of Rs.20,000/- as compensation to the claimant in MCOP.No.1127 of 2006 which is a just compensation.

11. The accident happened in the year 2006. Excepting for questioning its liability, the Appellant has not raised any other dispute in the grounds of these appeals.

12. For the foregoing reasons, this Court is of the considered view that there is no merit in both the appeals. Accordingly, these Appeals are dismissed. The Appellant insurance company is directed to deposit the award amount after deducting the amount already deposited, if any, together with interest from the date of claim till the date of deposit and costs as assessed by the Tribunal to the credit of MCOP.Nos.1126 & 1127 of 2006 within a period of four weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the respective first respondents are permitted to withdraw their award amount along with accrued interest lying to the credit of MCOP.Nos.1126 & 1127 of 2006 by filing appropriate applications. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

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Sub Assistant Registrar

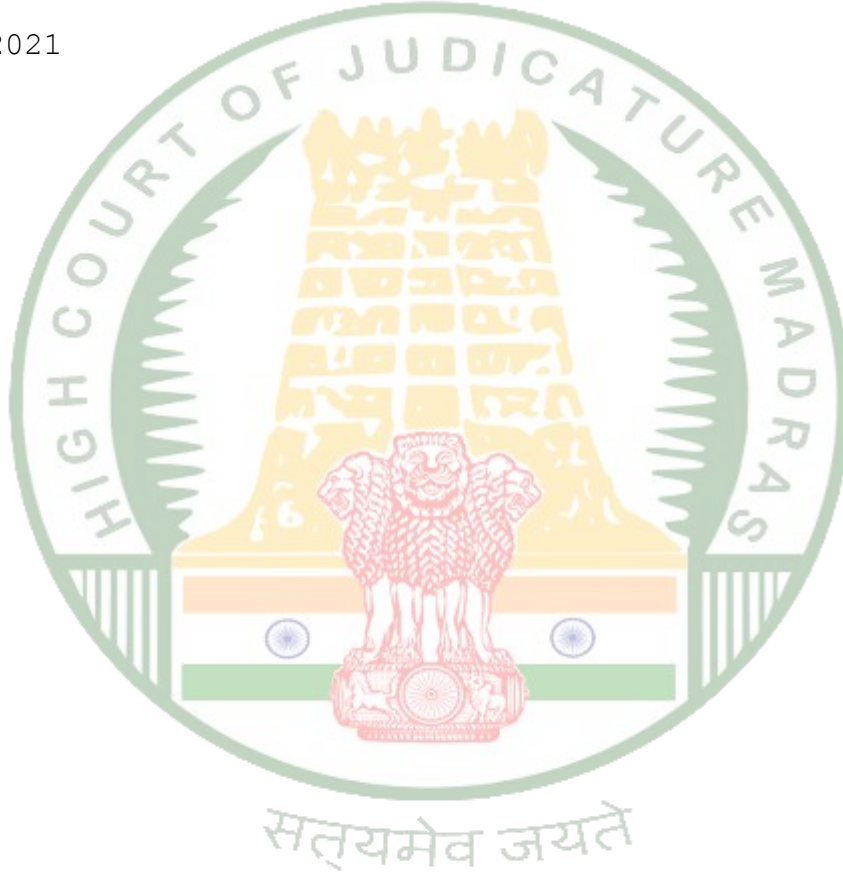
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To

1. The Principal District Judge,
Motor Accident Claims Tribunal,
Puducherry.
2. The Section Officer
V.R.Section, High Court of Madras.

C.M.A.Nos.2393 & 2394 of 2012

KK (CO)
CS/04/01/2021



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