

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2020

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.429 of 2014
and M.P.No.1 of 2014

1.S.Ananadurai ...1st Appellant/5th Respondent

2.Iffco Tokio General Ins. Co. Ltd.,
Thulasi Chambers, III Floor,
No.195, T.V.Samy Road (West),
R.S.Puram, Coimbatore.2nd Appellant/6th Respondent

vs.

1.M.Mangammal

2.M.Indhumathi (Minor)

3.M.Prabhakaran (Minor)
(Respondents 2 & 3 minors
rep. by Mother & NF 1st respondent)

4.A.Chinnammal ...Respondents 1 to 4/Claimants 1 to 4

5.K.Thangavel ...5th Respondent/1st Respondent

6.P.C.Duraisamy ...6th Respondent/2nd Respondent

7.M/s.United India Insurance Co. Ltd.,
Muthaih Complex, 2nd Floor,
No.1170 Complex, Erode - 638 011.
...7th Respondent/3rd Respondent

8.Mr.Ganesan @ Mani 8th Respondent/4th Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.892 of 2009 dated 23.02.2012 on the file of the Motor Accidents Claims Tribunal, First Additional District Court, Erode.

For Appellants : Mr.E.Rajadurai for
M/s.N.Vijayaraghavan

For Respondents : R1 - served - no appearance
R2 & R3 minors rep. by R1
R4 - died steps due
R5 to R7 - served -
no appearance
R8 - not known

JUDGMENT

(This appeal was heard through the Video Conferencing)

This appeal has been filed by the Appellants challenging the Award dated 23.02.2012 passed by the Motor Accident Claims Tribunal, First Additional District Judge of Erode, in M.C.O.P.No.892 of 2009.

2.The Appellant Insurance Company challenged the Award primarily on the ground that the Tribunal has erred in fastening 50% liability on the Appellant Insurance Company. According to them, two vehicles were involved in the accident and the entire negligence was solely on the part of the driver of Mahindra Bolero Jeep bearing Registration No.TN 33 AF 3359 insured with the seventh respondent. Even though, the Appellants have raised the ground that the quantum of compensation awarded by the Tribunal is excessive, the learned counsel for the Appellants has restricted his submissions only with regard to the liability of the Appellants to pay the compensation.

3.Admittedly, two vehicles were involved in the accident. The FIR (Ex.P1) was registered against the opposite vehicle namely Mahindra Bolero Jeep bearing Registration No.TN 33 AF 3359. It is a head on collision. MVI Report for both the vehicles namely Mahindra Van bearing Registration No.TN 36 W 4693 insured with the Appellant and Mahindra Bolero Jeep bearing Registration No.TN 33 AF 3359 insured with the seventh respondent were marked as exhibits before the Tribunal. Ex.P4 is the MVI Report for Mahindra Bolero Jeep bearing Registration No.TN 33 AF 3359 and Ex.P5 is the MVI Report for Mahindra Van bearing Registration No.TN 36 W 4693 insured with the Appellant. The Tribunal has extracted the damages caused to both the vehicles which was reported by the motor vehicle inspector as seen from Exs.P4 and P5. Both the vehicles have suffered damages due to the accident. The right portion of both the vehicles were completely damaged. In fact, on account of heavy impact, the right front tyres of both vehicles bursted which shows the rashness on the part of the driver of both the vehicles. After taking into consideration the evidence available on record the Tribunal has fixed the contributory negligence on both the

vehicles involved in the accident in the ratio of 50 : 50.

4.This Court has perused the materials and evidence available on record.

5.This Court is of the considered view that the Tribunal has rightly taken into consideration the materials and evidence available on record and in view of the head on collusion between two vehicles has rightly attributed contributory negligence on the part of both the vehicles in the ratio of 50 : 50.

6.For the foregoing reasons, this Court does not find any infirmity in the findings of the Tribunal.

7.Accordingly, the appeal shall stand dismissed. The respondents 5 to 7 are directed to deposit 50% of the award amount i.e. Rs.5,37,990/- and the eight respondent as well as the appellants 1 and 2 are directed to deposit 50% of the award amount i.e. Rs.5,37,990/- by the Tribunal, after deducting the amount already deposited if any, together with interest at the rate of 7.5% from the date of the claim till the date of realization to the credit of M.C.O.P.No.892 of 2009, on the file of the Motor Accidents Claims Tribunal, First Additional District Judge of Erode, within a period of four weeks from the date of receipt of a copy of this Judgment. Since the respondents 2 and 3 are minors, their respective share amount shall be deposited in any nationalised bank till they attain majority and the first respondent/guardian is permitted to withdraw the accrued interest once in three months. On such deposit being made, the Tribunal is directed to transfer the respective Award amount along with accrued interest lying to the credit of M.C.O.P.No.892 of 2009 to the bank account of respondents/claimants 1 and 4, through RTGS, within a period of two weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
First Additional District Judge of Erode.

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

C.M.A.No.429 of 2014

VBA (CO)
CB(22/04/2021)



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