

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2020

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.No.579 of 2017

M/s. United India Insurance Company Limited,
represented by its Branch Manager,
No,28, Mailam Road, Meenakshi Complex,
Tindivanam. ... Appellant/3rd Respondent

vs.

1. Mr.S.Muruganandam ...1st Respondent/Petitioner
2. Tamil Nadu State Transport Corporation,
Madurai - 625 001.
3. G.R.Srinivasan ... Respondents 2 & 3/Respondents 1 & 2

Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 10.09.2003 and made in M.A.C.T.O.P.No.348 of 2000 on the file of the Motor Accident Claims Tribunal, Sub - Court, Chidambaram.

For Appellant : No appearance

For R-1 : Mr.A.Muthukumar

For R-2 : Mr.S.V.Vasanthakumar

JUDGMENT

This appeal is preferred by the appellant Insurance Company against the award of a sum of Rs.59,000/- towards compensation to the first respondent, due to the injuries suffered by him in a motor vehicle accident.

2.The case in brief, is as follows:

On the fateful day, ie. on 03.05.1999, the first respondent/ claimant was traveling as a cleaner in the lorry bearing Registration No.TN 32 4001 belonging to the third

respondent and insured with the appellant insurance company, on the Vridhunagar to Sathur Main Road. When the lorry was nearing K.V.S. Matriculation School, the bus bearing Reg.No. TN -32 -1192 belonging to the second respondent Transport Corporation, came in a rash and negligent manner by overtaking some vehicles and dashed against the right side of the lorry. Due to the said impact, the first respondent claimant sustained grievous injuries. He filed a claim petition before the Tribunal seeking compensation of a sum of Rs.1,00,000/-. On consideration of the materials and evidence available on record, the Tribunal has awarded a total compensation of Rs.59,000/- with interest at the rate of 9% per annum from the date of petition. The said sum has been directed to be paid by the appellant insurance company and second respondent Transport Corporation, equally. Challenging the same, the appellant Insurance Company has filed the present Civil Miscellaneous Appeal.

3. There is no representation for the appellant, despite several opportunities granted. Considering the paucity of time, this Court is inclined to dispose of the appeal on merits.

4. The grounds raised by the appellant herein are that the Tribunal has erred in holding that the driver of the lorry also was rash and negligent and was responsible for the accident. He further submitted that the quantum of compensation awarded by the Tribunal is excessive, exorbitant and hence, the same has to be reduced substantially.

5. Per Contra, the learned counsel for second respondent Transport Corporation has submitted that the Tribunal, based on the evidence and witness account, has rightly rendered its findings fixing 50% contributory negligence on both the drivers of the lorry and the bus and has also awarded the just compensation and hence, the same do not call for any interference by this Court.

6. The learned counsel for the first respondent has also made his submissions on the similar lines as put forth by the learned counsel for the second respondent, in respect of the quantum of compensation.

7. Heard the learned counsel for the respondents and perused the materials and evidence available on record, carefully and meticulously.

8.The Tribunal, based upon the facts, materials and evidence, more particularly the evidence of P.W.1- claimant coupled with Ex.P1-FIR, Ex.P6 & Ex.P7-Motor Vehicle Inspector's Report, has fixed the negligence on the part of the drivers of both the vehicles, viz, lorry and bus, equally. No complaint has been given by the bus driver that the accident had occurred only due to the negligence on the part of the lorry driver. Since the accident occurred in a broad road and also taking note of the fact that there was a head-on-collision between the two vehicles, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the drivers of the both the vehicles, viz. lorry insured with the appellant insurance company and the bus belonging to the second respondent Transport Corporation, which finding this Court is not inclined to interfere.

9.As regards the quantum of compensation awarded by the Tribunal, the Tribunal has relied upon the exhibits, evidence of witnesses, treatment records of the injured, percentage of disability assessed by the Doctor and all other aspects in a proper perspective and has awarded the compensation amount under various heads to the claimant. Further, this Court is of the considered view that the amounts awarded towards various heads are reasonable and justifiable and hence the same are confirmed.

10.In the result, the Civil Miscellaneous Appeal is dismissed. No costs. The appellant insurance company and second respondent Transport Corporation are directed to deposit the entire award amount equally along with interest and costs, as awarded by the Tribunal, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the first respondent/claimant is permitted to withdraw the same on making proper application before the Tribunal.

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Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

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To

1. The Motor Accident Claims Tribunal,
Sub - Court, Chidambaram.
2. The Section Officer,
V.R.Section,
Madras High Court,
Chennai 104.

+1cc to Mr.A.Muthukumar, Advocate SR.No.32412

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GP (CO)
GMY (13/05/2021)



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