



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 04.11.2020

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD)Nos.1294 and 1295 of 2008

The Branch Manager
National Insurance Co, Ltd.,
175-A, Great Cotton Road,
Tuticorin.

.. Appellant in both appeals

vs.

1.Krishnamoorthy	...1 st Respondent in CMA(MD)No.1294/2008
1.Karthikeyan	...1 st Respondent in CMA(MD)No.1295/2008
2.Shahul Hameed	...2 nd Respondent in both appeals

Common Prayer: Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act 1988 against the Common Judgment and Decree dated 15.10.2007 made in MCOP Nos.1046 and 1047 of 2005 on the file of the Motor Accidents Claims Tribunal, (Additional District Judge), at Tirunelveli.

In both petitions:-

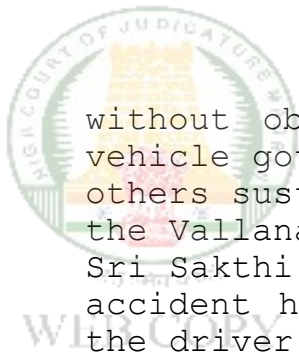
For Appellant : Mr.N.Murugesan

For Respondents : No appearance

COMMON JUDGMENT

Challenging the common award passed by the Motor Accident Claims Tribunal, Additional District Court, Tirunelveli, in M.C.O.P.Nos.1046 and 1047 of 2005 dated 15.10.2007, the Insurance Company has filed these appeals.

2.The facts in brief are that on 16.06.2005, the claimants and two others were returning from Tuticorin, after selling pottery items by a mini lorry bearing registration No.TN-72-J-2553 belonging to the second respondent herein and insured with the appellant/Insurance Company. When the vehicle was reaching near Muruganpuram bus stop, the driver drove it rashly and negligently



without observing the traffic rules and out of his control, the vehicle got into a ditch and capsized and thereby, the claimants and others sustained injuries. Immediately, the claimants were taken to the Vallanadu Hospital and thereafter, they were taking treatment in Sri Sakthi Hospital at Vannarpettai as inpatients. Alleging that the accident had taken place due to the rash and negligent driving of the driver of the mini lorry, the claimants laid petitions, claiming compensation of Rs.3,00,000/-.

3. Resisting the claim, the appellant/Insurance Company filed their counter disputing the manner of accident, age, avocation and income of the claimants and its liability to pay the compensation.

4. Before the Tribunal to substantiate the case, on the side of the claimant P.W.1 to P.W.3 were examined and Ex.P.1 to Ex.P.12 were marked. On the side of the appellant/Insurance Company, R.W.1 and R.W.2 were examined and Ex.R1 to Ex.R3 were marked.

5. The Tribunal, after considering the oral and documentary evidence, held that the driver of the mini lorry belonging to the second respondent herein was responsible for the accident and awarded compensation of Rs.15,000/- to the claimant in CMA(MD) No.1294 of 2008 and Rs.88,000/- to the claimant in CMA(MD) No.1295 of 2008 along with interest at the rate of 7.5% per annum. Assailing the award, the appellant/Insurance Company has filed the present appeal.

6. Heard the learned counsel appearing for the appellant/Insurance Company and perused the materials available on record.

7. The appellant/Insurance Company has filed these appeals only challenging the quantum and they have not disputed the manner of accident and their liability. Hence, it is not necessary to elaborate on other aspects.

8. A Perusal of the common judgment of the Tribunal would show that the Tribunal, on proper appreciation of evidence of P.Ws.1 to 3, wound certificates and accident registers, awarded Rs.15,000/- and Rs.88,000/- respectively with interest at the rate of 7.5% per annum as compensation. Though it is contended that the award is on the higher side and it requires reduction, this Court is of the view that the award is just and reasonable. I find no valid reason to overturn the findings of the Tribunal.

9. In that view, both the Civil Miscellaneous Appeals are dismissed, as devoid of merits. Since these appeals are dismissed, the appellant/Insurance Company is directed to deposit the entire award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit, the appellant/Insurance Company is permitted to withdraw the award amount, less the



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amount already withdrawn, if any, together with proportionate interest and costs. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

- 1.The Additional District Judge,
Motor Accident Claims Tribunal,
Tirunelveli.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2 Copies)

COMMON JUDGMENT MADE IN
C.M.A(MD)Nos.1294 and 1295 of 2008

04.11.2020

NS (CO)

NR (27/01/2021) 3P : 4C