



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A. (MD) No.344 of 2009

and

M.P. (MD) No.1 of 2009

National Insurance Company Ltd.,
registered Office
No.3, Milton Street
Post Box No.9229
Culcutta-700 071

... Appellant/2nd Respondent

-vs-

1.The Regional Manager
Tamil Nadu State Transport Corporation Ltd.,
Madurai Division
6/377, Madurai Road
Virudhunagar.

... 1st Respondent/Petitioner

2.N.Balraman

... 2nd Respondent/1st Respondent

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award and order made in M.C.O.P.No.154 of 2007, dated 06.09.2008, on the file of the Motor Accident Claims Tribunal (Sub Court), Virudhunagar.

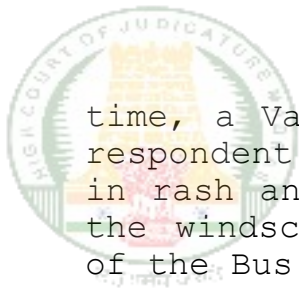
For Appellant : Mr.N.S.Ramakrishnadass

For Respondents : Mr.S.C.Herold Singh for R1
No appearance for R2

J U D G M E N T

Challenging the Judgment and Award, dated 06.09.2008, passed in M.C.O.P.No.154 of 2007, by the Motor Accident Claims Tribunal / Sub Court, Virudhunagar, the Insurance Company has preferred this civil miscellaneous appeal.

2. The first respondent - Transport Corporation filed the claim petition seeking a compensation of Rs.79,340.77 for the damages caused to their Bus. It is the case of the first respondent - Transport Corporation that on 22.06.2005, at about 05.30 a.m., their Bus bearing registration No.TN67 N0191 was taken from the Depot and it was proceeding from Tirunelveli to Kovilpatti. At that



time, a Van bearing registration No.TN63 A1769 owned by the second respondent and insured with the appellant - Insurance Company came in rash and negligent manner and rammed the Bus. In the accident, the windscreen, front bumper, headlights, indicators and dashboard of the Bus were totally damaged.

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3. The appellant - Insurance Company resisted the claim petition stating that the accident took place only because of the negligent driving of the driver of the Transport Corporation's Bus. Further, Motor Vehicle Inspector's report has not been produced to show the extent of the damages of the vehicle.

4. Both the parties have adduced oral and documentary evidence in support of their claim. However, the Tribunal, after analyzing the evidence adduced by the parties, came to the conclusion that the driver of the Van caused the accident and directed the owner as well as the insurer of the Van, who are second respondent and appellant herein to pay compensation of Rs.13,100/- along with interest at the rate of 7.5% per annum. The said Award is under challenge in this civil miscellaneous appeal by the Insurance Company.

5. Heard Mr.N.S.Ramakrishnadass, learned counsel appearing for the appellant - Insurance Company and Mr.S.C.Herold Singh, learned counsel appearing for the first respondent - Transport Corporation and carefully perused the materials available on record.

6. From the perusal of the records, it is seen that though the first respondent / Transport Corporation claimed a compensation of Rs.79,340.77, the Tribunal, after considering the evidence of the conductor of the Bus, who was examined as P.W.1 and the first information report (Ex.P1) and job card (Ex.P2) awarded the compensation of Rs.13,100/- for the damages caused to the first respondent - Transport Corporation's Bus and held that the appellant - Insurance Company is liable to pay the compensation as the insurer of the offending vehicle. In my considered opinion, the Tribunal, on proper appreciation of the oral and documentary evidence, has rightly fixed the negligence on the part of the driver of the Van and awarded the compensation for the damages caused to the Bus. I find no illegality or irregularity in the Award passed by the Tribunal and it does not warrant any interference from this Court.

7. In that view, the civil miscellaneous appeal is dismissed, as devoid of merits. Since the appeal is 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 order. On such deposit, the first respondent - Transport Corporation / claimant is permitted to withdraw the award amount, less the amount already withdrawn, if



any, together with proportionate interest and costs. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar(CS)

Note :In view of the present lock down owing to COVID-19 pandemic, a web copy of the Judgment may be utilized for official purposes, but, ensuring that the copy of the Judgment that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

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To:

- 1.The Sub Judge,
Motor Accident Claims Tribunal,
Virudhunagar.
- 2.The Record Keeper, (2 copies)
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.N.S.RAMA KRISHNAN DASS, Advocate (SR-25388[F] dated 14/12/2020)

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VB (31.12.2020) 3P 5C