



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.M.A.No.1832 of 2010

United India Insurance Co. Ltd.,
Branch Office No.178, I Floor,
Dr.Nanjappa Road,
Coimbatore.

...Appellant/4th Respondent

Versus

1.Murugan

...1st Respondent/Petitioner

2.N.Nagaraj

...2nd Respondent/1st Respondent

3.National Insurance Co.Ltd.,
Branch Office,
Mettupalayam-4.

...3rd Respondent/2nd Respondent

4.N.Sarguna

...4th Respondent/3rd Respondent

(Respondents 2 and 4 set exparte
before the Tribunal)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 23.04.2009 made in M.A.C.T.O.P.No.622 of 2008 on the file of the Motor Accident Claims Tribunal, Additional Special Judge, Krishnagiri.

For Appellant : Mr.M.J.Vijayaraghavan

For R1 : Not ready in notice

For R2 & R4 : Exparte

For R3 : M/s.R.Ratna Tara

J U D G M E N T

This appeal is laid as against the judgment and decree dated 23.04.2009 made in M.A.C.T.O.P.No.622 of 2008 on the file of the Motor Accident Claims Tribunal, Additional Special Judge, Krishnagiri, thereby awarded the compensation to the tune of Rs.47,610/-



2. For the sake of convenience, the parties are referred to hereunder according to their litigative status before the Tribunal.

3. The case of the claimant is that on 30.06.2005, when the claimant was travelling in a Minidoor Auto bearing Registration No.TN.38-S-8292, proceeding in Perundurai to Kovai NH Road, keeping left of the road and driven in a cautious manner and nearing Sanarpalayam Branch Road, at that time, a lorry belonged to the first respondent and insured with the second respondent bearing Registration No.TN-40-7749 came in the opposite direction, in a rash and negligent manner and dashed against the Minidoor and caused accident. Due to the said accident, the claimant has sustained multiple injuries. The claimant has claimed a sum of Rs.1,00,000/- as compensation. Aggrieved by the same, the fourth respondent filed the present appeal questioning the negligence on the part of the driver of the vehicle owned by the third respondent, insured with the fourth respondent.

4. The learned counsel for the appellant submitted that admittedly, the claimant had travelled in a Minidoor Auto owned by the third respondent insured with the fourth respondent, a lorry owned by the first respondent insured with the second respondent, hit against the auto and caused accident. Due to which, the claimant sustained grievous injuries and claimed compensation.

5. The Tribunal had concluded that only due to the negligent driving on the part of the lorry, belonging to the first respondent, insured with the second respondent, the accident had taken place and they are liable to pay compensation. Unfortunately, while concluding the issue, the Court below, wrongly considered that the lorry was owned by the third respondent and was insured with the fourth respondent and they are liable to pay compensation.

6. A perusal of the records reveals that the claimant was travelled in a minidoor auto owned by the third respondent, insured with the fourth respondent. The driver of the lorry had driven a lorry in a rash and negligent manner, hit against the auto and caused accident. The lorry owned by the first respondent and insured with the second respondent. The FIR marked as EX.P1 reveals that the accident took place only on the negligent driving on the part of the driver of the lorry, which is owned by the first respondent. Therefore, the Tribunal wrongly considered that the lorry, which is caused accident owned by the third respondent and insured with the fourth respondent and awarded compensation and the same is payable by the third and fourth respondent jointly and severally.



7. In view of the above, the order and decree dated 23.04.2009 made in M.A.C.T.O.P.No.622 of 2008 on the file of the Motor Accident Claims Tribunal, Additional Special Judge, Krishnagiri, is hereby set aside, so far as the liability fastened as against the third and fourth respondent alone and it is ordered that the first and second respondents are liable to pay compensation to the claimant. Accordingly, the Civil Miscellaneous Appeal is allowed. The fourth respondent is permitted to withdraw the amount deposited, if any. It is made clear that if the claimant already withdrawn the amount, the fourth respondent is at liberty to recover the same from the second respondent in the manner known to law. No costs.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

Lpp

To

The Motor Accident Claims Tribunal,
Additional Special Judge,
Krishnagiri.

Copy to

The Section Officer,
V.R.Section,
Madras High Court,
Chennai.

+1cc to M/s.R.Ratna Tara, Advocate, S.R.No.26862

C.M.A.No.1832 of 2010

GJ[co]
NSK 01/12/2021