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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 08.02.2021

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.M.A.NOS.258 TO 262 OF 2017

C.M.A.No.258 of 2017:

The Managing Director,
Tamil Nadu State Transportation
Corporation, Villupuram Ltd.,
Villupuram.

.. Appellant/
1st Respondent

/versus/

1. Vasantha
W/o.Shankar
2. Minor Parthiban
S/o.Shankar
3. Minor Jansirani
D/o.Shankar
4. Ranganathan
5. Pushparani
W/o.Ranganathan
(Minors 2 and 3 represented by their mother and natural
guardian Vasantha, the 1st petitioner herein)
6. Murugan
7. The Divisional Manager,
ICICI, Lambard General Insurance Company Ltd.,
No.140, Chotabai Centre, IIInd Floor,
Nungambakkam High Road,
Chennai.

.. Respondents/
Petitioners 1 to 5/
2nd & 3rd Respondents

Prayer:

Civil Miscellaneous Appeal is filed under Section 173 of
Motor Vehicle Act, 59 of 1988, against the judgment and decree



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dated 29.03.2012 made in M.C.O.P.No.173 of 2010 on the file of the Motor Accident Claims Tribunal, Additional Sub Court, Thiruvannamalai and praying to set aside the same.

For Appellant : Mr.C.S.K.Sathish

For Respondents: Mrs.R.Sreevidhya for R7
No appearance for R1,R2,R3 and R5
R4-died steps not taken
R6-steps not taken

C.M.A.No.259 of 2017:

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Ltd.,
Villupuram.

.. Appellant/1st Respondent

/versus/

1.Manickavasagam

2.Murugan

3.The Divisional Manager,
ICICI, Lambard General Insurance Company Ltd.,
No.140, Chotabai Centre, IInd Floor,
Nungambakkam High Road,
Chennai-600 034.

.. Respondents/Petitioners 2nd & 3rd/
Respondents

Prayer:

Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 59 of 1988 against the judgment and decree dated 29.03.2012 made in M.C.O.P.No.368 of 2008 on the file of Motor Accident Claims Tribunal, Additional Sub Court, Thiruvannamalai and praying to setaside the same.

For Appellant :Mr.C.S.K.Sathish

For Respondents:Mrs.R.Sreevidhya for R3
No appearance for R1 and R2



C.M.A.No.260 of 2017:

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Ltd.,
Villupuram.

.. Appellant/1st Respondent

/versus/

1.Priya

2.Murugan

3.The Divisional Manager,
ICICI, Lambard General Insurance Company Ltd.,
No.140, Chotabai Centre, IInd Floor,
Nungambakkam High Road,
Chennai-600 034.

.. Respondents/Petitioner/
2nd & 3rd Respondent

Prayer:

Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 59 of 1988, against the judgment and decree dated 29.03.2012 made in M.C.O.P.No.515 of 2008 on the file of Motor Accident Claims Tribunal, Additional Sub Court, Thiruvannamalai and praying to set aside the same.

For Appellant :Mr.C.S.K.Sathish

For Respondents:Mrs.R.Sreevidhya for R3
No appearance for R1 and R2

C.M.A.No.261 of 2017:

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Ltd.,
Villupuram.

.. Appellant/1st Respondent

/versus/

1.Minor Arun,
S/o Sakthi,
Minor rep.by his mother and natural
Guardian Priya

2.Murugan



3.The Divisional Manager,
ICICI, Lambard General Insurance Company Ltd.,
No.140, Chotabai Centre, IInd Floor,
Nungambakkam High Road,
Chennai-600 034.

.. Respondents/Petitioners/
2nd & 3rd Respondents

Prayer:

Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 59 of 1988, against the judgment and decree dated 29.03.2012 made in M.C.O.P.No.516 of 2008 on the file of Motor Accident Claims Tribunal, Additional Sub Court, Thiruvannamalai and praying to set aside the same.

For Appellant :Mr.C.S.K.Sathish

For Respondents:Mrs.R.Sreevidhya for R3
No appearance for R1 and R2

C.M.A.No.262 of 2017:

The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Ltd.,
Villupuram.

.. Appellant/1st Respondent

/versus/

1.Sakthi

2.Murugan

3.The Divisional Manager,
ICICI, Lambard General Insurance Company Ltd.,
No.140, Chotabai Centre, IInd Floor,
Nungambakkam High Road,
Chennai-600 034.

.. Respondents/Petitioners/
2nd & 3rd Respondents

Prayer:

Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 59 of 1988, against the judgment and decree dated 29.03.2012 made in M.C.O.P.No.517 of 2008 on the file of Motor Accident Claims Tribunal, Additional Sub Court, Thiruvannamalai and praying to set aside the same.



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For Appellant :Mr.C.S.K.Sathish

For Respondents:Mrs.R.Sreevidhya for R3
No appearance for R1 and R2

COMMON JUDGMENT

Heard the learned counsel appearing for the appellant in all the five appeals and the learned counsel appearing for the 7th respondent/Insurance company in C.M.A.No.258 of 2017 and the 3rd respondent/Insurance Company in C.M.A.Nos.259 to 262 of 2017.

2.A short point involved in these appeals is that whether the accident occurred solely due to the negligence of the Transport Corporation bus driver or there was any other contribution on the part of the Indica car driver, who died in the accident due to head on collusion with the transport Corporation bus?

3.The brief facts of the case is that on 21.05.2008 at about 09.00 a.m., while the Corporation bus bearing Reg.No.TN-32-N-2618 was proceeding towards Chennai to Thiruvannamalai near Vizhukkam Cross Road, an Indica car bearing Reg.No.TN-22-AT-7825 coming from the opposite direction colluded with the said bus. In the said accident, Shankar the driver of the Indica car died and the other occupants sustained injury. Before the Motor Accident Claims Tribunal at Thiruvannamalai, (i)the legal heirs of the deceased Shankar filed claim petition in M.C.O.P.No.173 of 2010 claiming compensation of Rs.20,00,000/-; (ii) Manivasakam filed claim petition in M.C.O.P.No.368 of 2008 claiming compensation of Rs.2,00,000/-; (iii)Priya filed claim petition in M.C.O.P.No.515 of 2008 claiming compensation of Rs.2,00,000/-; (iv)Minor Arun represented by her mother Priya filed claim petition in M.C.O.P.No.516 of 2008 claiming compensation of Rs.2,00,000/-; and (v)Sakthi filed claim petition in M.C.O.P.No.517 of 2008 claiming compensation of Rs.2,00,000/-.

4. The Tribunal conducted joint trial. Five witnesses were examined on behalf of the claimants and 28 exhibits were marked in support of their claim petitions. On the side of the 1st respondent, one witness viz., Anbazhagan was examined as RW-1.

5. On considering the evidence, the Tribunal awarded a sum of Rs.6,62,500/- for the claimants/legal heirs of the deceased Shakar in M.C.O.P.No.173 of 2010; a sum of Rs.60,800/- for the claimant/Manivasakam in M.C.O.P.No.368 of 2008; a sum of Rs.82,000/- for the claimant/Priya in M.C.O.P.No.515 of 2008; a sum of Rs.51,000/- for the claimant/Minor Arun represented by its mother Priya in M.C.O.P.No.516 of 2008; a sum of Rs.57,000/-



for the claimant/Sakthi in M.C.O.P.No.517 of 2008.

6. The learned counsel appearing for the appellant/transport corporation in all the appeals submitted that the Tribunal failed to consider the negligence on the part of the car driver against whom, the First Information Report was registered. Instead of fixing the negligence on the part of the car driver, inspite of First Information Report registered against him , since he died in the accident, the Tribunal contrary to the documentary evidence and the evidence of RW-1 the driver of the transport corporation bus has held that the transport corporation bus driver alone was responsible for the accident, so, the corporation is liable to pay the compensation to the victims of the accident.

7. The learned counsel referring the First Information Report registered against the deceased Shankar the driver of the Indica car and the evidence of RW1-Anbazhagan contended that the accident occurred due to the negligence of the Indica car driver. He came in rash and negligent manner in the opposite direction. To avoid hitting him, the driver of the transport corporation bus stopped the bus on the left side road margin. At the same time, two lorries coming behind the transport corporation bus hit the bus and caused damages to the transport corporation bus. Therefore, without contribution of the Indica car driver, this accident would not have happened. The Tribunal miserably failed to appreciate this evidence. Hence, the award requires interference.

8. On perusal of the Tribunal award, this Court finds that the Tribunal has arrived at an conclusion holding the Transport Corporation liable to pay compensation because the First Information Report relied on by the appellants herein is a self-serving document. The First Information Report was registered, based on the complaint given by the Transport Corporation bus driver RW-1. There is no document to show that the police, after investigation, has contended that the Indica car driver was at fault. In the absence of final report, the First Information Report cannot be basis for concluding the negligence and cause for accident. To rebut the version of RW-1, the claimants have deposed that the accident occurred only due to the negligence of the transport corporation bus. The content of FIR is not a substantial piece of evidence. Therefore, the contention of the learned counsel appearing for the appellant that the Tribunal erred by not relying the First Information Report and the evidence of RW-1 pales to insignificance. In the light of the evidence given by PW-1 to PW-3, who are all the claimants and the accident victim, their evidence over weighs RW-1 evidence. The other grounds taken by the appellant to assail the Tribunal award also does not carry any merit.



9. Hence, all the Civil Miscellaneous Appeals are dismissed.
No order as to costs.

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Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To:-

1. The Motor Accidents Claims Tribunal,
Additional Sub Court, Thiruvannamalai District.

+1cc to Mrs.R.Sreevidhya, Advocate, S.R.No.7539

C.M.A.Nos.258 to 262 of 2017

AJS (CO)
CS/21/09/2021