



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2021

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD)No.1178 of 2011

and

M.P. (MD)No.1 of 2011

WEB COPY

United India Insurance Company Limited,
Salem, Rep. by its Manager
Salem,
Salem District.

...Appellant/^{3rd} Respondent

Vs.

1.The Superintending Engineer,
Kanyakumari Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Nagercoil and Village,
Agasteeswaram Taluk,
Kanyakumari District.

...1st Respondent/Petitioner

2.Subbaiah

...2nd Respondent/1st Respondent

3.Vadivel

...3rd Respondent/2nd Respondent

4.The Branch Manager,

United India Insurance Company Limited,
Xavier Building, P.W.D.Office Road,
Nagercoil and Village,
Agasteeswaram Taluk,
Kanyakumari District.

...4th Respondent/4th Respondent

*(Notice to R4 may be dispensed with since
he was implicated for administration purpose)*

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, 1988, to set aside or modify the order of the Tribunal in M.C.O.P.No.265 of 2009, dated 04.07.2011 on the file of the Motor Accidents Claims Tribunal, First Additional Subordinate Court, Nagercoil.

For Appellant : Mr.J.S.Murali
For Respondents : No Appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed to set aside or modify the order of the Tribunal in M.C.O.P.No.265 of 2009, dated 04.07.2011 on the file of the Motor Accidents Claims Tribunal, First Additional Subordinate Court, Nagercoil.

2. On 25.09.2003 at about 1.00 hours in the early morning, the first respondent drove his vehicle bearing Registration No.TAL-6796



in a rash and negligent manner and dashed against the transformer available near Thovalai and thereby, caused damages to the petitioner to a tune of Rs.1,25,700/-. Due to the rash and negligent driving of the second respondent herein, the property viz, transformer 100 KVA was damaged and connected materials were also damaged. The occurrence was reported to the Sub Inspector of Police, Aralvoimozhi by the Junior Engineer (Distribution), Tamil Nadu Electricity Board, Thovalai and registered a case in Cr.No.501 of 2003 for the offences under Section 279 IPC. After investigation, charge sheet was also laid before the Judicial Magistrate, Boothapandy in S.T.C.No.287 of 2004 and the second respondent admitted the offence and paid Rs.500/- as fine.

3.The first respondent/petitioner has filed a petition in M.C.O.P.No.265 of 2009 on the file of the Motor Accidents Claims Tribunal/I Additional Subordinate Court, Nagercoil, seeking compensation of Rs.1,25,700/-.

4.Before the Tribunal, on the side of the first respondent/petitioner, one witness was examined as P.W.1 and marked eleven documents as Ex.P1 to Ex.P13. On the side of the appellant herein/3rd respondent, one witness was examined as R.W.1 and marked one document as Ex.R1.

5.The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsels for the petitioner and respondents and also on appreciating the evidences on record, held that the accident was occurred only due to the rash and negligent driving of the driver of the second respondent herein and directed the appellant and the second and third respondents herein to pay a sum of Rs.71,400/- as compensation. Against which, the appellant/Insurance Company has preferred this appeal.

6.The learned counsel appearing for the appellant/Insurance Company contended that the Tribunal ought have directed the appellant Insurance Company to pay only Rs.6,000/-, as per the policy conditions, out of the awarded compensation amount to the claimant (R1) and directed the balance amount to be paid by the owner of the vehicle (R3). Therefore, he prayed this Court to modify the award amount.

7.Heard Mr.J.S.Murali, the learned counsel appearing for the appellant and no representation for the respondents.

8.On perusal of records, it shows that as per Ex.R1 in respect of any one claim or series of claims arising out of one event, the liable is fixed at Rs.6,000/-. The Tribunal has also come to conclusion that as per the policy, the Insurance Company has to pay only Rs.6,000/-, but discussed about various judgment and awarded Rs.71,400/-. But all the citations are related to injury cases.

Services, present case, the appellant/United India Insurance



Company is liable to pay only Rs.6,000/- and the 3rd respondent/owner of the vehicle to pay the remaining amount of Rs.65,400/- to the petitioner/1st respondent herein.

9. In the facts and circumstances of the case, the order passed by the Tribunal in M.C.O.P.No.265 of 2009 on the file of the Motor Accidents Claims Tribunal/I Additional Subordinate Court, Nagercoil, is hereby modified. The appellant/United India Insurance Company Limited, is directed to pay a sum of Rs.6,000/- and the third respondent herein is directed to pay the remaining amount of Rs.65,400/- to the first respondent herein within a period of four weeks from the date of receipt of a copy of this order.

10. In the result, the Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

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

To

1. The I Additional Subordinate Judge,
The Motor Accidents Claims Tribunal, Nagercoil.

2. The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.J.S.MURALI, Advocate (SR-39242[F] dated 17/12/2021)

C.M.A. (MD)No.1178 of 2011and
M.P. (MD)No.1 of 2011
16.12.2021

MMS (CO)
KB(11.02.2022) 3P 5C