

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 23.02.2021****CORAM:****THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**CMA(MD)No.309 of 2013

Divisional Manager,

United India Insurance Company Limited,

Cantonment, Trichy.

: Appellant/2nd Respondent

Vs.

1.M.Raju

:1st Respondent/Petitioner

2.R.Raja

3.S.Mohammed Ibram Shah

4.Divisional Manager,

New India Assurance Company Limited,

Jerome Building,

Fort Station Road,

Trichy-2

: Respondents 2 to 4/R1, R3 and R4

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act against the award, dated 09.04.2002 made in MCOP No.1902 of 1999 on the file of Motor Accident Claims Tribunal (III Additional Sub Court), Trichy.

For Appellant

: Mr.N.Murugesan

For 1st Respondent: Dismissed vide order,
Dated 10.04.2019

For R2 and R3

: Ex-parte

For 4th Respondent

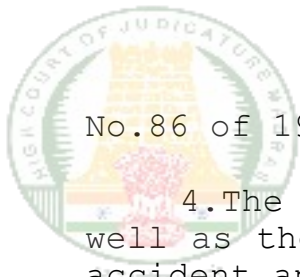
: Mr.B.Vijaya Karthikeyan

JUDGMENT

Challenge made in this appeal is to the award passed by the Motor Accident Claims Tribunal (III Additional Sub Court), Trichy, in MCOP No.1902 of 1999, dated 09.04.2002.

2.The brief facts of the case are that on 10.05.1999 at about 14.30 hours, the injured claimant Raju was travelling as a passenger in a private bus TN-45-Q-9091 belonging to one R.Raja. When the bus was proceeding from Dindigul to Manapparai, near Sevariyarpuram, the driver of the bus drove it in a rash and negligent manner and dashed against the Lorry TN-45-1149. Due to the impact, the claimant sustained multiple grievous injuries and immediately, he was admitted in the Government Hospital, Manapparai and subsequently, he was referred to Government Head Quarters Hospital, Trichy, where his right hand was amputated. The injured claimant filed a claim petition seeking compensation of Rs.6,00,000/- on the ground that the driver of the bus was responsible for the accident.

3.The claimant has stated that at the time of the accident, his age was 40 and he was doing Sub Contractor in the Telephone Office and was earning Rs.15,000/- per month. A criminal case in Crime



No.86 of 1999 was registered by the Variyampatty Police.

4.The claim was opposed by the appellant Insurance Company as well as the 4th respondent Insurance Company disputing the manner of accident and their liability to pay compensation.

5.The Tribunal, upon consideration of oral and documentary evidence, came to the conclusion that the driver of the Bus was responsible for the accident and awarded compensation of Rs.3,07,000/- together with interest @ 9% p.a. Aggrieved by the award of the tribunal, the appellant United India Insurance Company is before this court.

6.Heard both sides and perused the materials available on record.

7.The learned counsel appearing for the appellant submitted that the tribunal erred in holding that the Bus insured with the appellant was solely responsible for the accident and also erred in exonerating the Lorry, which was also involved in the accident and the tribunal failed to note that the Lorry driver was solely responsible for the accident and as such, no award ought to have been passed against the appellant. It is further submitted that the quantum of award is on the higher side, so the quantum is to be reduced.

8.It is seen from the records that at the time of accident, the Bus was insured with the appellant Insurance Company. Hence, the Appellant Insurance Company is liable to pay the compensation to the claimant and then recover the same from the owner of the vehicle. PW1 is the injured as well as the eye witness to the accident. A criminal case was registered against the driver of the Bus. Ex.P1 FIR stands registered based on the complaint given by PW1. PW1 has given evidence stating that due to the rash and negligent driving of the Bus driver, the accident took place and in the accident, he sustained multiple injuries. Ex.P2 is the Wound Certificate. Ex.P5 is the Disability Certificate.

9.PW2 Dr.Jeyaraman has deposed that he examined the claimant and found that the claimant had sustained grievous multiple injuries and due to crush injuries his right hand was amputated and he assessed 99% permanent disability and issued Ex.P5 Disability Certificate to the claimant. Based on the evidence, the Tribunal has come to the conclusion that the claimant has suffered 99% permanent disability and awarded **Rs.2,25,000/-** under the head. Further, the Tribunal awarded Rs.25,000/- towards pain and sufferings; Rs.14,000/- towards medical expenses as per Ex.P3; Rs.3,000/- towards nutrition; Rs.15,000/- towards loss of future income; Rs.25,000/- towards loss of estate, totally **Rs.3,07,000/-** together with interest @ 9% p.a and directed the Appellant Insurance Company to pay the amount and then recover from the owner of the Bus. In the considered view of this court, the award is fair and



reasonable and therefore, it is confirmed.

10. In the result, the Civil Miscellaneous Appeal is dismissed, confirming the award of the tribunal. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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To

1. The Motor Accidents Claims Tribunal/
III Additional Sub Court, Trichy.

Copy to
The Record Keeper, (2C)
V.R Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.N.MURUGESAN, Advocate (SR-6823[F] dated 24/02/2021)

+1 CC to M/s.B.VIJAY KARTHIKEYAN, Advocate (SR-7319[F] dated 25/02/2021)

C.M.A (MD) No.309 of 2013
23.02.2021

KMK (CO)
KB (27.04.2021) 3P 6C