



WEB COPY

C.M.A.(MD)No.319 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 22.07.2021

Delivered On : 04.08.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.M.A.(MD)No.319 of 2013

and

M.P.(MD)No.1 of 2013

The New India Assurance Company Ltd.,
Rep. By its Manager,
Sivakasi.

..Appellant/2nd Respondent

Vs.

1.General Manager,

Tamil Nadu State Road Transport Corporation,
(Madurai Division No.IV)

.. 1st Respondent/Petitioner

2.G.Murugan

.. 2nd Respondents/1st Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment and decree dated 03.03.2005 passed in M.C.O.P.No.350 of 2000 on the file of the Motor Accidents Claims Tribunal(Fast Track Court), Dindigul.

For Appellant	: Mr.D.Sivaraman
For 1 st Respondent	: Mr.K.Sudalaiyandi
For 2 nd Respondent	: No Appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed against the award passed in M.C.O.P.No.350 of 2000 dated 03.03.2005, on the file of the Motor Accidents Claims Tribunal(Fast Track Court), Dindigul.

2.The appellant herein is the second respondent, the first respondent herein is the petitioner and the second respondent herein is the first respondent in the claim petition. The first respondent has filed a claim petition in M.C.O.P.No.350 of 2000, claiming compensation for the damages of the vehicle in an accident that took place on 27.12.1998. The Tribunal has awarded a sum of Rs.15,000/- (Rupees Fifteen Thousand only) as compensation. Against which, the appellant has preferred this appeal.



3.A brief substance of the claim petition in M.C.O.P.No.350 of 2000 is as follows:

On 27.12.1998, at about 11.50 p.m., the driver of the bus bearing registration No.TN-57-N-0829 that belong to the claimant, drove the bus in a careful and cautious manner along the Madurai to Palani road. At about 01.00 a.m., on 28.12.1998, a lorry bearing registration No.TN-I-1478 was driven by its driver in a rash and negligent manner dashed against the bus and caused damages to the bus. The claimant claimed a sum of Rs.23,212/- (Rupees Twenty Three Thousand Two Hundred and Twelve) as compensation.

4.Brief substance of the counter filed by the second respondent therein is as follows:

The lorry was driven by its driver in a moderate speed observing all the road rules. The bus was driven by the driver in a rash and negligent manner and dashed against the lorry. A false case was lodged against the lorry driver. The claim is excessive.

5.On the side of the petitioner therein, two witnesses were examined and three documents were marked. On the side of the second respondent therein, one witness was examined and one document was marked. After trial, the Tribunal has awarded a sum of Rs.15,000/- (Rupees Fifteen Thousand only) as compensation to be paid by the appellant. Against which, the appellant has preferred this Civil Miscellaneous Appeal.

6.On the side of the appellant, it is stated that the policy is an act policy. No additional premium was paid by the owner of the vehicle. The insurance company is liable only a sum of Rs.6,000/- (Rupees Six Thousand only) towards third party property damage. The award is excessive.

7.On the side of the appellant, it is further stated that under Section 147 of the M.V. Act, the insurance company is not liable to pay compensation. The insurance company is liable to only up to Rs.6,000/- (Rupees Six Thousand only). The balance amount has to be borne only by the owner. In support of this contention, the judgment of this Court in the case of **the Divisional Manager v. M.Vasumathi and others** reported in **2019 (2) TNMAC 764** is cited.

8.On the side of the first respondent, it is stated that the appellant is liable for third party property damage.

9.A perusal of the insurance policy reveals that it is not an act policy. It is comprehensive policy covering driver, cleaner and six coolies. There is no wordings in the premium regarding the limitation of liability ie. Restricting the liability for third party property damages up to Rs.6,000/- (Rupees Six Thousand only). However, the appellant has not raised these points before the



Tribunal. The above cited judgment is with regard to applicability of the Act only policy to the inmates of the car. Hence, this aforesaid judgment is not applicable to the present facts of the case.

10.Hence, it is decided that the compensation awarded by the Tribunal is reasonable. There is nothing sufficient enough to interfere in the award passed in in M.C.O.P.No.350 of 2000 dated 03.03.2005, on the file of the Motor Accidents Claims Tribunal(Fast Track Court), Dindigul.

11.In the result, this Civil Miscellenaous Appeal is dismissed. The first respondent is entitled to a sum of Rs.15,000/- (Rupees Fifteen Thousand only) as compensation with interest at the rate of 7.5% from the date of the claim petition till the date of realization.

12.The appellant is directed to deposit Rs.15,000/- (Rupees Fifteen Thousand only) with 7.5% interest from date of the claim petition till the date of realization and the amount if not deposited earlier, has to be deposited within a period of 8 weeks from the date of receipt of copy of this order. On such deposit, the claimant is permitted to withdraw the award amount with proportionate interest after deducting any amount received by him earlier without filing any formal petition before the Tribunal. Excess amount, if any deposited shall be refunded to the appellant. The claimant is not entitled for interest for the default period, if there is any. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MRN

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 Additional District and Sessions Judge,
The Motor Accidents Claims Tribunal, (Fast Track Court),
Dindigul.



2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-25199[F] dated 04/08/2021)
+1 CC to M/s.K.SUDALAIYANDI, Advocate (SR-25206[F] dated 04/08/2021

C.M.A. (MD)No.319 of 2013
04.08.2021

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