



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2022

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THE HONOURABLE MS. JUSTICE P.T.ASHA

C.M.A. No.55 of 2022

and

C.M.P.No.372 of 2022

1. Shriram General Insurance Co. Ltd.,
VCTC Main Road, Sathy Road,
Erode 638 003. ... Appellant/ 2nd Respondent

Vs

1. Sulochana ... 1st Respondent/ 1st Petitioner.
2. Minor Naveenkumar ... 2nd Respondent/ 2nd Petitioner.
3. Minor Rosika ... 3rd Respondent/ 3rd Petitioner.

(2nd and 3rd Respondents Being Minors are Represented by their
Mother/next friend Mrs.Sulochana, the 1st respondent herein)

4. Sowndram ... 4th Respondent/ 4th Petitioner.
5. S.Nallasamy ... 5th Respondent/ 1st Respondent.
6. G.Ramesh ... 6th Respondent/ 3rd Respondent.

PRAYER: Petition filed under Section 173 of Motor Vehicle Act,
to set aside the order dated 9th day of August 2021 made in
MCOP.No.581 of 2018 on the file of Motor Accident Claims
Tribunal (Special District Court) Salem.

For Petitioner : Mr.S.Dhakshnamoorthy
For Respondents : No appearance
R1, 4 to 6 - Seved No appearance
R2 & R3 (Minor) rep by R1

JUDGEMENT

The 2nd respondent/Insurance Company has challenged the
award passed by the Motor accident Claims Tribunal Special
District Judge, Salem in M.C.O.P.No.581 of 2018. The challenge
is on the ground of negligence.



2. It is the contention of the learned counsel appearing on behalf of the appellant/ insurance company that the accident had occurred only on account of the negligence of the driver of the car in which the deceased Devaraj @ Thiagarajan, the husband of the 1st petitioner and father of the petitioners 2 and 3 and the son of the 4th respondent was travelling. He would submit that the charge sheet which is marked as Ex.C.1, clearly sets out that the driver of the car was rash and negligent in his driving and it was this rash and negligent driving that had caused the accident. He would submit that this factor has not been taken note of by the Tribunal below and this has resulted in the Insurance Company being mulcted with the entire liability.

3. The respondents though served have not entered appearance. Therefore, this Court has proceeded to hear the learned counsel for the appellant/ Insurance Company and pass orders.

4. It is no doubt true that Ex.C.1, charge sheet would state that the driver of the Car in which the deceased was travelling was driven in rash and negligent manner by its driver. However, C.W.1, the police official who was examined and through whom Ex.C1 had been marked in his cross examination has clearly deposed that the charge sheet does not contain the statement of the witnesses. That apart, the FIR had been registered against the driver of the tanker lorry. In these circumstances the fixing of liability on the driver of the car in the charge sheet appears to be suspicious.

5. The Tribunal has considered the above aspect and rejected the contention and has held that the accident was only on account of the rash and negligent driving of the tanker lorry. Therefore, the argument in this regard has to necessarily be rejected. Since the appeal has been preferred only on the ground of negligence and as this Court finds that the Tribunal below has rightly held the Driver of the Tanker lorry to be negligent, nothing further survives for consideration in the above appeal and consequently, the appeal is dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1.Motor Accident Claims Tribunal
(Special District Court) Salem.

2.The Section Office,
V.R.Section,
High Court, Madras.

+1cc to Mr.S.Dhakshnamoorthy, Advocate SR.No.18226

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SR II (CO)
GN(05/05/2022)