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C.M.A.No.556 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2022

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.M.A.No.556 of 2013
and M.P.No.1 of 2013

Karnataka State Road Transport
Corporation Limited
Bangalore Division
Bangalore.

.. Appellant / 3rd Respondent

-Vs.-

1. Ashok Kumar

2.Geetha

3.The National Insurance Company Ltd.,
K.K.Road, Villupuram.

.. Respondents / Petitioner,
Respondents 1 & 2

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, praying to set aside the judgment and decree dated 15/03/2012 passed in O.P.No.36/2001 on the file of II Additional Subordinate Judge, Villupuram.



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For Appellant ... Mr.T.Thiyagarajan
For Respondents ... Mr.M.Krishnamoorthy for R3

Mr.S.Gajapathikrishnan for R1
(No appearance)

R2 - Not ready in notice

JUDGMENT

The 3rd respondent-Transport Corporation before the Tribunal has challenged the Award passed by the Motor Accident Claims Tribunal (II Additional Subordinate Judge) Villupuram in M.C.O.P.No.36 of 2001 in as much as it has mulcted the liability on the Transport Corporation totally overlooking the fact that in the connected claim petitions in M.C.O.P.Nos.347, 411 of 2001 and 47 of 2002, the Insurance Company has accepted its liability and paid the entire compensation.

2. Heard the learned counsel for the appellant-Transport Corporation and the learned counsel for the 3rd respondent-Insurance Company and perused the materials available on record.



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3. In paragraph 3 of the counter of the appellant / third respondent, it has been stated as follows:-

“This respondent submits that the connected matters MACOP 411/2001, 47/2002 and 347/2001 which arose out of the same accident had been settled by the 2nd respondent National Insurance Company exclusively and excluding this respondent and the awards had been passed as against the 2nd respondent i.e National Insurance Company Limited and they have also satisfied the awards. Hence it is submitted that this respondent is not liable to pay any compensation amount at all”

However, the Tribunal has proceeded to overlook the said statement, though there is no rebuttal on the side of the third respondent-Insurance Company regarding they having satisfied the three connected claim petitions.

4. Considering the above, it is clear that the Insurance Company has accepted that the erring vehicle is the second respondent's vehicle. In view of the fact the other claim petitions also arise from the very same accident and the Insurance Company has accepted the liability in those claim petitions, the same order has to be followed in the instant case also. Consequently, the Award passed by the Tribunal is set aside. The liability is



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fixed on the driver of the second respondent's vehicle and the third respondent

— Insurance Company as the insurer shall compensate the petitioner. It is informed that the Insurance Company has already deposited their share of 50 % as ordered by the Tribunal. Therefore, the Insurance Company is directed to deposit the remaining 50% of the Award amount to the credit of M.C.O.P.No.36 of 2001 along with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs as awarded by the Tribunal, within a period of six weeks from the date of receipt of a copy of this judgment. Accordingly, the civil miscellaneous appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

23.11.2022

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To

1. The II Additional Subordinate Judge, Villupuram.
2. The Section Officer, V.R. Section, High Court, Madras.



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P.T.ASHA, J.,

srn

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