



C.M.A.(MD)No.1057 of 2009

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2022

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.M.A.(MD)No.1057 of 2009

and

M.P.(MD)No.2 of 2009

National Insurance Co. Ltd.,
Jeorme Building, 1st Floor,
Fort Station Road,
Trichy – 2.

... Appellant

VS.

1.P.Neelavathi (Died)
2.R.Velusamy
3.The Managing Director,
Tamil Nadu State Transport Corporation,
Tiruchirappalli.
4.Anbarasan
5.Aravindkumar
6.Anusuya Devi

... Respondents

[R4 to R6 are brought on record as LR. of the
deceased first respondent, vide order dated
07.12.2022, made in C.M.P.(MD)Nos.11099,
11100 and 11102 of 2022]

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988, against the fair and decretal order dated 23.10.2008,

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WEB COPY made in M.C.O.P.No.649 of 2000, on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Tiruchirappalli.

For Appellant : Mr.S.Srinivasaraghavan

For 1st Respondent : No Appearance

For 2nd Respondent : No Appearance

For 3rd Respondent : Mr.Prakash

JUDGMENT

This appeal is directed against the award passed by the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Trichy, partially allowing the claim petition filed by one Leelavathi/first respondent, who filed the claim petition, has met the maker pending appeal. The legal representatives have been brought on record.

2. The Tribunal considering the claim petition for compensation of Rs.1,00,000/- for the grievous injury sustained by the first respondent/claimant while she was travelling in the Transport Corporation bus. On 25.03.1999, the accident alleged to have happened when the lorry dashed behind the bus. The



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first respondent/claimant lost her balance and hit herself against the iron rod and sustained injury. She was treated as inpatient in the Railway Hospital at Ponmalai for 15 days, since she has sustained severe injury on thigh and hip. After 15 days treatment as inpatient, she was advised to take treatment as outpatient. Alleging that the injury sustained by her is grievous in nature, she claimed Rs.1,00,000/- as compensation from the owner of the lorry, its insurer and the Managing Director of the Transport Corporation.

3. The Tribunal after considering the evidence and the defence taken by the Insurance Company, partially allowed the claim petition, awarding compensation of Rs.41,500/- with interest at the rate of 7.5% p.a. against the owner of the lorry and its insurer.

4. Being aggrieved by the award, the Insurance Company has preferred this civil miscellaneous appeal.

5. According to the appellant, the trial Court erred in not considering the fact that except the first respondent/claimant, no one was injured in the said



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accident. The narration about the accident appears to be imaginary and exaggerated one. Further, regarding the accident, the F.I.R., was not lodged immediately. This also leads to suspicion that the content of the F.I.R. is not true, but concocted.

6. Taking exception to the evidence of P.W.1 and the content of Ex.P.3 Medical Bills, the learned counsel for the appellant Insurance Company would submit that it is improbable for the claimant alone in the whole bus to sustain injury, when the alleged impact from behind by the lorry, insured under the appellant Insurance Company.

7. This Court on perusing the evidence of P.W.1/claimant and the outpatient chit, marked as Ex.P.2 and the testimony of Exs.P.5 and P.6 hospital case sheet and disability certificate respectively, finds that the nature of injury sustained by the first respondent/claimant is akin to accidental injuries and the contemporaneous documents indicate that she sustained injury while travelling in the bus, which was subjected to the accident. The driver of the lorry, who hit the bus, has pleaded guilty before the Magistrate Court and paid the fine amount. A



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copy of the order passed by the learned Judicial Magistrate No.II, Trichy, in C.C.No.910 of 1999 is marked as Ex.R.1. Therefore, the occurrence of the accident and the injuries sustained are proved. In such circumstances, taking into the age of the victim and the nature of the injuries, the compensation of Rs.41,500/- with interest at 7.5% p.a. does not appear to be on a higher side, since the first respondent/claimant sustained grievous injury and has been hospitalized for more than 15 days as inpatient and even after discharge from the Hospital, has not regained her full capacity and ability to carry on her day-to-day work.

8. This Court finds no merit in the appeal. Hence, this Civil Miscellaneous Appeal is dismissed. As pointed out earlier, pending appeal, the first respondent/injured claimant died leaving behind her legal heirs as respondents 4 to 6. The award amount with accumulated interest shall be apportioned between the respondents 4 to 6 equally. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes
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- To
- 1.The Motor Accident Claims Tribunal,
Chief Judicial Magistrate, Tiruchirappalli.
 - 2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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DR.G.JAYACHANDRAN, J.

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JUDGMENT MADE IN
C.M.A.(MD)No.1057 of 2009

DATED : 07.12.2022