



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
15.03.2022	13.04.2022

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CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN**C.M.A(MD)No.512 of 2021****and****C.M.P(MD)Nos.4466, 7881 and 7357 of 2021**

1.The Superintendent of Police,
Pudukottai District.

2.The Government of Tamilnadu
rep. by the District Collector,
Pudukottai.

.. Appellants /
Respondents 1 and 2

Vs

1.A.Mohammed Fayasudeen

.. 1st Respondent /
Petitioner

2.Mohammed Ali

3.The New India Assurance Company Ltd.,
Thiruchirapalli - 620 008.

.. Respondent 2 and 3 /
Respondents 3 and 4

PRAYER: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the award, dated 26.02.2020, passed in M.C.O.P.No.5818 of 2013 by the Motor Accident Claims Tribunal / Special Sub Court, Tiruchirappalli.

For Appellants : Mr.M.Sarangan,
Additional Government Pleader.

For Respondent No.1 : Mr.Hema Karthikeyan

For Respondent No.3 : Mr.J.S.Murali

For Respondent No.2 : No appearance



JUDGMENT

This Civil Miscellaneous Appeal is directed against the award dated 26.02.2020 made in M.C.O.P.No.5818 of 2013 on the file of the Motor Accidents Claims Tribunal / Special Sub Court, Tiruchirappalli.

2.The respondents 1 and 2 in the claim petition, viz., the Superintendent of Police, Pudukottai District and the District Collector, Pudukottai, are the appellants herein, challenging the award passed in M.C.O.P.No.5818 of 2013.

3.The first respondent / petitioner filed the claim petition alleging that on 14.07.2012 at about 11.00 a.m., the petitioner was travelling in the carriage area of TATA ACE vehicle bearing Registration No.TN-45-AS-2792 holding the goods which was purchased and carrying to his relative marriage in Aranthangi and the above vehicle was driven in normal speed from Trichy to Pudukkottai and a police vehicle, Swaraj Mazta bearing Registration No.TN-55-G-0489 came in the opposite direction, which was driven in a rash and negligent manner and dashed against the right side of the TATA ACE vehicle, due to which the first respondent / petitioner sustained grievous injuries.

4.The first respondent / petitioner filed the Motor Accidents Claim Original Petition in M.C.O.P.No.5818 of 2013 on the file of the learned Motor Accidents Claims Tribunal, Trichy. At the time of filing of the said petition, the first respondent was 14 years old minor boy and he filed the said petition through his legal guardian, Shamshath Begum and subsequently on attaining the age of majority, the first respondent herein filed necessary interlocutory application for declaring himself as major and the said petition was allowed.

5.The first respondent filed the claim petition seeking for compensation of Rs.7,00,000/-. On 26.02.2020, the Tribunal has allowed the petition filed by the first respondent by awarding a compensation of Rs.3,30,780/-. Further, the Tribunal fixed equal liability on the second appellant as well as the third respondent / Insurance Company.

6.Challenging the finding of the Tribunal fixing 50% each on the respective drivers, namely, police driver of the vehicle of the Superintendent of Police with that of the driver of the goods vehicle, wherein the minor boy has travelled, the respondents 1 and 2 in the claim petition, have filed this appeal.



7.The learned Additional Government Pleader appearing for the appellants would contend that the fact that the second respondent's driver who drove the TATA ACE vehicle bearing Registration No.TN-45-AS-2792 had admitted the fact that he was the sole reason and responsible for the accident. In fact, the police filed the charge sheet against the second respondent's driver J.Sebastian which was taken on file in S.T.C.No.971 of 2012 on the file of the learned Judicial Magistrate, Keeranur. In the said case, the second respondent's driver has clearly admitted his responsibility for the occurring of accident and paid Rs.1,250/- as fine. When the second respondent's driver has admitted his liability before the Criminal Court, the Tribunal ought not to have directed the appellants herein to pay 50% of compensation amount to the 1st respondent.

8.This Court has given its anxious consideration for the said submissions.

9.The main thrust of the contention of the learned Additional Government Pleader for the appellants is that the driver of the TATA ACE vehicle, where the injured has travelled, has pleaded guilty and paid the fine as per Ex.P.5, Judgment. Therefore, the entire responsibility for the accident should be fixed on him, not on the driver of the police vehicle.

10.Heard the learned counsel for the first respondent / claimant and the learned counsel for the third respondent / Insurance Company.

11.On perusal of the documents filed before the Tribunal, I find that Ex.P.1, FIR came into existence immediately after the accident, wherein the police driver of the police vehicle is shown as accused. After investigation, it appears that the police have filed Ex.P.4, charge sheet fixing the negligence on the part of the driver of the TATA ACE vehicle and omitted the police driver as an accused. Within few days, it appears that the plead guilty memo is filed and fine is also paid, as could be seen from Ex.P.5. Now, the first appellant police placing reliance upon Ex.P.5, would contend that the entire negligence should be fixed upon the driver of TATA ACE vehicle, not on the police driver.

12.The Assistant from the Regional Transport Office is examined as R.W.1 and Ex.R.1 and Ex.R.2 were marked. None of the occurrence witnesses were examined by the first respondent / petitioner. Since the claim petitioner was a minor at the time of trial, his mother has entered into the witness box and deposed as P.W.1 and marked Ex.P.1, FIR. For the reasons best known, the police driver, who is exonerated in the charge sheet, has not



entered into the witness box to show his version or depose his version, assumes significance. Before the Tribunal, neither the petitioner nor the respondent police have examined any of the occurrence witnesses. However, reliance is only placed upon Ex.P.5, Judgment rendered in the criminal case.

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13.The evidentiary value of the Judgment of the criminal case in the matter of claim petitions before the Motor Accidents Claims Tribunal is settled. Based upon Ex.R.1 and Ex.R.2, it is revealed that both the vehicles colluded with each other and it was a head on collision and the right side of both the vehicles were damaged and the Tribunal has rightly come to the conclusion that the driver of both the vehicles have caused the accident and accordingly, held composite negligence at 50% each. Such a finding based upon Ex.R.1 and Ex.R.2, coupled with Ex.P.3, cannot be found fault with, especially, when the first appellant has withheld the occurrence witness in entering into the witness box and hence, I find that there is no infirmity in the finding rendered by the Tribunal. In this view of the matter, the order of the Tribunal holding that both the vehicle drivers have composite negligence at 50% each, does not suffer from any irregularity or illegality warranting interference at this appellate stage.

14.In this view of the matter, this Civil Miscellaneous Appeal is dismissed and the award, dated 26.02.2020, passed in M.C.O.P.No.5818 of 2013 by the Motor Accident Claims Tribunal / Special Sub Court, Tiruchirappalli, is confirmed. No costs. Consequently, connected Miscellaneous Petitions are dismissed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

- 1.The Special Sub Judge,
Motor Accidents Claims Tribunal,
Tiruchirappalli.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.(2 copies)



+1 CC to M/s.J.S. MURALI, Advocate (SR-18525[F] dated 13/04/2022)

+1 CC to M/s.K. HEMAKARTHIKEYAN, Advocate (SR-18903[F] dated 18/04/2022)

+1 CC to M/s.SPL.GP. (SR-19159[F] dated 18/04/2022)

JUDGMENT MADE IN
C.M.A(MD)No.512 of 2021
13.04.2022

ss (CO)

TR(27.04.2022) 5P 7C