



C.M.A(MD)Nos.783 to 785 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 26.10.2022

Pronounced On : 14.11.2022

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

C.M.A(MD)Nos.783, 784 and 785 of 2021

and

C.M.P.(MD)Nos.7326, 7329 and 7330 of 2021

The Commissioner,
For Disciplinary Proceedings Pro TN
Residing at 4/929, 40 Feet Road,
Rahmath Nagar,
Maharaja Nagar, Tirunelveli - 627 011.

: Appellant / Respondent
(in all appeals)

Vs.

Krishnaveni

: Respondent/Petitioner
(in C.M.A(MD)No.783/ 2021)

Minor.Irirkumar

: Respondent/ Petitioner
(in C.M.A(MD)No.784 / 2021)

(Minor claimant rep.through
his mother N.G.Krishnaveni)

Jeganathan

: Respondent/ Petitioner
(in C.M.A(MD)No.785 / 2021)



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COMMON PRAYER:- Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the common judgment and decrees passed in M.C.O.P.Nos.171, 180 and 181 of 2014, dated 28.01.2020 on the file of the Motor Accident Claims Tribunal/Subordinate Court, Virudhunagar.

(in all appeals)

For Appellant : Mr.N.Muthuvijan,
Special Government Pleader.

For Respondents : Mrs.K.R.Shivashankari

COMMON JUDGMENT

These Civil Miscellaneous Appeals are directed against the common award, dated 28.01.2020, passed in M.C.O.P.Nos.171, 180 and 181 of 2014 on the file of the Motor Accident Claims Tribunal/Subordinate Court, Virudhunagar.

2.The appellant/Commissioner, for Disciplinary Proceedings Pro TN, Tirunelveli, who was made liable to pay compensation of Rs.2,35,506/-, Rs.2,71,966/- and Rs.25,000/- to the claimants in M.C.O.P.Nos.171, 180 and 181 of 2014, respectively, for the disabilities



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suffered by them, consequent to an accident occurred on 20.05.2014, challenged the liability mulcted on him by the tribunal.

3.The claimant Krishnaveni in M.C.O.P.No.171 of 2014 is the mother of the claimant/minor Irikkumar in M.C.O.P.No.180 of 2014 and daughter of the claimant/Jeganathan in M.C.O.P.No.181 of 2014.

4.The case of the claimants is that on 20.05.2014 at about 18.15 hours, the injured Jeganathan went along with his daughter and grand child in a TVS XL Super bearing Registration No.TN-67-E-7932 on Virudhunagar-Sattur four way track and on the southern side service road near Medical Godown a Car bearing Registration No.TN-72-G-1218 came in a rash and negligent manner and dashed against the two wheeler, as a result of which, all the three had sustained injuries and that the accident was occurred only due to the rash and negligent driving of the van driver and hence, a case was registered in Crime No.113 of 2014, under Sections 279 and 338 IPC on the file of the Soolakarai Police Station.



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5.The defence of the appellant/respondent is that the First Information Report was registered on the basis of the oral statement given by the injured Krishnaveni, which itself reveals that the accident had taken place due to the burst of left front side tyre of Tata Indigo Car; that the Police has thereafter, laid the charge sheet against the driver of the Car as if, the accident was occurred due to the rash and negligent driving of the driver; that the accident had happened due to the burst of left front side tyre of the Car and immediately, after the burst of the left front tyre, the vehicle had lost its control and thereafter, the said accident had occurred and that therefore, the accident had not occurred due to any rash and negligent driving of the vehicle, but due to the mechanical defect of the left side tyre of the above said Car.

6.During trial, the claimants had examined the petitioners in M.C.O.P.No.171/2014 and M.C.O.P.No.181/2014 as P.W.1 and P.W.2, respectively and exhibited 34 documents as Ex.P.1 to Ex.P.34. The Appellant/respondent has adduced neither oral nor documentary evidence.



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7.The learned trial Judge, upon considering the evidence, both oral and documentary and on hearing the arguments of both the sides, has passed the impugned common order, dated 28.01.2020, holding that the accident was occurred only due to rash and negligent driving of the Car driver and granted compensation at Rs.2,35,506/-, Rs.2,71,966/- and Rs. 25,000/-, to three claimants, respectively. Aggrieved by the said common order, the respondent in the claim petitions has preferred the present appeals.

8.The points for consideration are :

(i) Whether the Tribunal erred in deciding that the accident was occurred only due to the rash and negligent driving of the Car driver, despite showing that the FIR was registered on the basis of the oral statement of the injured claimant , that the accident had taken place due to the burst of left front tyre of the Car and the accident was occurred only due to the mechanical defect of the vehicle ?

(ii) Whether the impugned common order, dated 28.01.2020, is liable to be interfered with ?



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9.It is pertinent to note that the appellant/respondent has only challenged the liability mulcted on him and not challenged the quantum of compensation arrived at, by the Tribunal.

10.No doubt, as rightly pointed out by the learned counsel for the appellant/respondent, on the basis of the complaint given by the injured Krishnaveni, FIR came to be registered, wherein she has specifically stated that the accident had occurred due to the burst of the left front tyre of the Car. But as rightly contended by the learned counsel for the claimants, the Police after completing the investigation, has laid the final report against the Car driver for the offence under Sections 279 and 337 IPC (3 counts) and the case was taken on file in S.T.C.No.1516 of 2014 on the file of the learned Judicial Magistrate No.II, Virudhunagar. The claimants have produced the copy of the FIR, Charge sheet, Observation Mahazar, Rough sketch, Medical records and Charge sheet filed by the concerned Police before the jurisdictional Magistrate.

11.It is evident from Ex.P.7 copy of the judgment passed in S.T.C.No.1516 of 2014 that the learned Magistrate, after conducting trial and on considering the plea of guilty made by the Car driver, convicted



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the accused for the offence under Sections 279 and 337 (3 counts) IPC and sentenced him to pay fine.

12.P.W.1 and P.W.2 in their evidence would reiterate their version raised in the claim petitions regarding the manner of accident and according to them, the Car driver had driven the Car in a rash and negligent manner and at that time, left front tyre of the Car bursted and lost its control, went to the service road, which was lying on the east and dashed against the two wheeler. Though P.W.1 and P.W.2 were subjected to cross examination, nothing was elicited by the appellant in their favour.

13.As rightly contended by the learned counsel for the respondent, the evidence of P.W.1 and P.W.2 regarding the manner of accident was not at all shaken during their cross examination. As already pointed out, the appellant has not adduced any evidence. Though the appellant has taken a stand that the accident was occurred only due to the mechanical defect of the vehicle and that the Car driver was not at fault, they have not produced any iota of evidence to substantiate their defence.



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14.As already pointed out, the Car driver has himself admitted his guilt before the Criminal Court and paid the fine amount.

15.It is pertinent to note that the Motor Vehicle Inspector, after inspecting the vehicle has observed that the front L/S and R/S tyres damaged due to accident and has given his opinion that the accident was not occurred due to any mechanical defect of the vehicle. Considering the evidence of P.W.1 and P.W.2 and the records available on records, the finding of the Tribunal that the accident was occurred only due to the rash and negligent driving of the Car driver, cannot be found fault with.

16.The Tribunal, considering the disability certificate issued by the Medical Board and the Medical evidence available on record, has granted compensation at Rs.3,000/- for every percentage of disability to the claimants Krishnaveni and Minor.Irakkumar. The Tribunal has also granted amount towards loss of earnings, pain and suffering, extra nourishment, transportation charges, damages to clothes and medical expenses and the same cannot said to be excessive or unreasonable. Since the claimant Jeganathan has suffered simple injury, the Tribunal has granted Rs.25,000/- as lump sum compensation. The appellant has



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not canvassed any other reason or ground to impugn the common award. Hence, this Court concludes that the above appeals are devoid of merits and the same are liable to be dismissed. Considering the other facts and circumstances, this Court further decides that the parties are to be directed to bear their own costs and the above points are answered accordingly.

17.In the result, these Civil Miscellaneous Appeals are dismissed and the impugned common order, dated 28.0.2020 passed in M.C.O.P.Nos.171, 180 and 181 of 2014, on the file of the Motor Accident Claims Tribunal/Subordinate Court, Virudhunagar, is confirmed. The appellant is directed to deposit the entire award amount with accrued interests and costs, within a period of four weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the claimants in CMA(MD)No.783/2021 and CMA(MD)No.785/2021, are permitted to withdraw their shares as apportioned by the Tribunal, with accrued interests and costs. The Tribunal is directed to deposit the share of the minor claimant in CMA(MD)No.784/2021, in any one of the Nationalized Bank in a fixed deposit scheme, till the minor claimant attain majority. The mother and



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guardian of the minor claimant is permitted to withdraw the accrued interest once in three months directly from the Bank only for the welfare of the minor. Consequently, connected Miscellaneous Petitions are closed. Parties are directed to bear their own costs.

14.11.2022

Index : Yes : No
Internet : Yes : No
das

To

- 1.The Motor Accident Claims Tribunal/
Subordinate Judge, Virudhunagar.
- 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Pre-delivery order made in
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