



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2022

CORAM:

THE HONOURABLE MRS.JUSTICE S.ANANTHI

CMA(MD)No.893 of 2017 &

CMP(MD)No.9573 of 2017

WEB COPY

The Executive Engineer,
TWAD Board, Erode - 1.

... 5th Respondent/Appellant

vs.

1.C.Sivakumar

... Appellant/Respondent

2.R.Balasubramanian

3.United India Insurance Company Limited,
No.280, Ooty main road,
Mettupalayam,
Coimbatore District.

4.N.Kalidas

5.National Insurance Company Limited,
No.88, Bypass road,
Dharmapuri - 636 701.

...2 to 5 Respondent/Respondent

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgment and Decree dated 05.04.2013 in MCOP.No.123/2012 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Court, Karur.

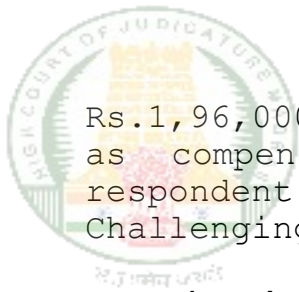
For Appellant	:	Mr.R.Satheesh
For Respondents	:	Mr.R.Karunanithi for R2
		Mr.A.S.Mathialagan for R3
		Mr.D.Sivaraman for R5
		No appearance for R1 and R4

J U D G M E N T

The appellant filed this appeal against the Judgment and Decree dated 05.04.2013 in MCOP.No.123/2012 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Court, Karur.

2. On 05.05.2004, the claimant was travelling as a passenger in a Mahindra Jeep bearing Registration No.TN Q 2368. At about 04.30 am, a Tata Sumo bearing Registration No.TN 47 D 6566 came in the opposite direction in a rash and negligent manner and dashed against the Jeep, as a result of which, the claimant sustained multiple grievous injuries all over his body.

3. The claimant filed MCOP.No.123/2012 claiming compensation for the injuries sustained by him. The Tribunal after analysing the oral and documentary evidences on record, awarded a sum of



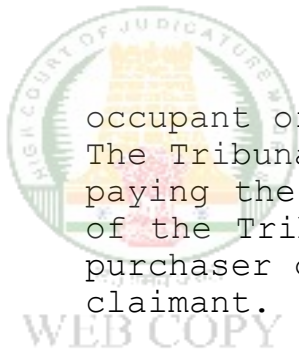
Rs.1,96,000/- together with interest at the rate of 7.5% per annum, as compensation and directed the appellant and the second respondent herein to pay the compensation jointly and severally. Challenging the same, the appellant has preferred this appeal.

4. The learned counsel for the appellant would submit that the appellant had sold the Jeep bearing Registration No.TN Q 2368 to the second respondent herein in auction on 19.09.2003. The accident occurred only on 05.04.2004 and hence, the appellant is not liable to pay compensation to the first respondent / claimant. Further, the Jeep is a condemned vehicle which cannot be used for travelling purpose. Hence, he prayed for exonerating the appellant from paying compensation to the first respondent / claimant.

5. The learned counsel appearing for the second respondent would submit that the Jeep bearing Registration No.TN Q 2368 was insured with the third respondent and hence, only the third respondent is liable to pay compensation to the first respondent / claimant.

6. The learned counsel appearing for the third respondent would submit that the Tribunal had elaborately considered the oral and documentary evidences and came to a conclusion that the third respondent herein is not liable to pay compensation to the first respondent / claimant. He therefore, prayed for the appeal as against the third respondent to be dismissed.

7. A perusal of the Rough Sketch Ex.R3 would show that the driver of the Jeep bearing Registration No.TN Q 2368 was responsible for the accident. First Information Report was registered against the driver of the Jeep and Charge Sheet was also filed against him. Hence, the Tribunal was correct in fixing the entire negligence on the driver of the Jeep. According to the appellant, they had sold the Jeep to the second respondent in auction on 19.09.2003 by Sale Order Letter No.1709/F.2369/Jeep/JDO.2/2003 dated 17.09.2003. The said Sale Order is also produced before this Court. The second respondent had taken possession of the Jeep from 19.09.2003 onwards. The accident occurred only on 05.05.2004 ie., nearly seven months after the sale of the vehicle. In the facts and circumstances, the appellant cannot be held liable to pay the compensation since he had already sold the vehicle to another person and accordingly, the appellant is hereby exonerated from their liability to pay compensation. The Jeep was a condemned vehicle and hence it cannot be used for travelling purpose. The second respondent, who is the purchaser of the Jeep could neither use the Jeep nor allow any person to use the Jeep for travelling purpose, as it is a condemned vehicle. Hence, the second respondent is liable to compensate the first respondent / claimant. The Jeep was insured with the third respondent / United India Insurance Company. United India Insurance Company contended before the Tribunal that the policy is only an Act



occupant of the Jeep was not entitled to get compensation from them. The Tribunal also accepted their contention and exonerated them from paying the compensation. This Court also concurs with the decision of the Tribunal in this regard. Therefore, the second respondent / purchaser of the Jeep is liable to compensate the first respondent / claimant.

8. In the result,

(i) The Civil Miscellaneous Appeal is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

(ii) The quantum of compensation awarded by the Tribunal is confirmed.

(iii) The second respondent herein is directed to deposit the compensation ie., Rs.1,96,000/- (less the amount already deposited, if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.123/2012 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Court, Karur within a period of six weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the first respondent / claimant is at liberty to withdraw the same after following due process of law.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To
The Principal Subordinate Judge,
The Motor Accident Claims Tribunal, Karur.

COPY TO:-

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court, Madurai. (2 Copies)

+1 CC to M/s.A.S.MATHIALAGAN, Advocate (SR-2156[F] dated 24/01/2022)
+1 CC to M/s.D.SIVARAMAN, Advocate (SR-2319[F] dated 25/01/2022)

CMA(MD)No.893 of 2017

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GC(18.02.2022) 3P 6C

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