



C.M.A.No.1958 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

C.M.A.No.1958 of 2005

The District Collector, Erode.

... 4th Respondent/Appellant

Vs.

1.Ramathal

2.Subbathal

3.M.Sakthivel

4.Pongiyannan

... Petitioners/Respondents

... 1 & 2 Respondents/Respondents

5.The Branch Manager,

The New India Assurance Company Ltd.,

12, New Hospital Road,

Gobichettipalayam Town & Taluk.

... 3rd Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgement and decree dated 08.07.2002 made in M.C.O.P.No.59 of 2001 on the file of the Additional District Motor Accident Claims Tribunal (Fast Track Court No.II), Gobichettipalayam.

For Appellant : Dr.S.Suriya
Additional Government Pleader

For Respondents : Ms.G.Sumitra
for M/s.R.T.Duraisamy [R1 & R2]
Died (steps not taken to bring LR's) [R3]
Not Ready in Notice [R4]
Mr.J.Chandran [R5]



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JUDGMENT

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Challenging the judgement and decree dated 08.07.2002 made in M.C.O.P.No.59 of 2001 on the file of Additional District Motor Accident Claims Tribunal (Fast Track Court No.II), Gobichettipalayam, the appellant has filed this appeal.

2. On 04.08.1999 at about 07.30 p.m., one deceased Rangasamy travelled as a pillion rider in the vehicle viz., Bullet, which was driven by the third respondent herein and the said vehicle was owned by the fourth respondent and was insured with the fifth respondent. At that time, when they were nearing Moolavaikkal Mary Road, a tractor came from a opposite direction in a rash and negligent manner and dashed against the said vehicle, thereby, the deceased sustained crush injuries and the third respondent sustained simple injuries. Thereafter, the respondents 1 and 2/claimants filed a claim petition before the Tribunal claiming a compensation of Rs.4,73,500/-. The third respondent, driver of the vehicle did not contest the claim petition and was set *ex-parte*. After adjudication, the Tribunal awarded a sum of Rs.3,00,000/- as compensation and directed the appellant and the respondents 3 to 5 to pay the compensation. Aggrieved by the same, the appellant has filed the present appeal.



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3. The learned Additional Government Pleader appearing for the appellant submitted that in respect of the hit and run unknown vehicle, the claimants have to workout their remedy under Section 161 of the Motor Vehicles Act as against the General Insurance Company, however, the appellant has been unnecessarily impleaded as a party and award has been passed as against the appellant, which is not sustainable. On the sole ground, the present appeal has been filed.

4. Heard the learned Additional Government Pleader appearing for the appellant, learned counsel appearing for the respondents 1 and 2 and the learned counsel appearing for the fifth respondent and perused the materials available on record.

5. Admittedly, the respondents 1 and 2 made allegation against the unknown tractor. However, the law enforcing agency has not conducted the proper investigation to identify the offending vehicle as well as the driver. This Court is unable to understand how the appellant/District Collector is responsible for the accident, even though there is no allegation against the appellant. In the present case, there was no allegation against the appellant and



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the respondents 1 and 2 added the appellant as party in the claim petition.

Unless the respondents 1 and 2 establishes that the Government vehicle was involved in the said accident, they cannot implead the District Collector/appellant as party in the claim petition. Therefore, it is for respondents 1 and 2 to identify the tractor and proceed against the owner of the tractor and they cannot fasten the liability on the appellant for the purpose of claiming compensation, as the appeal against the appellant is not maintainable.

6. Accordingly, the judgement and decree dated 08.07.2002 made in M.C.O.P.No.59 of 2001 on the file of the Additional District Motor Accident Claims Tribunal (Fast Track Court No.II), Gobichettipalayam is set aside. However, the respondents 1 and 2 are directed to workout the remedy as against the other respondents and also the owner of the unknown tractor in the manner known to law with regard to collection of compensation. No costs.

09.10.2023

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To

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- 1.The Additional District Motor Accident Claims Tribunal,
(Fast Track Court No.II),
Gobichettipalayam.
- 2.The Section Officer,
V.R.Section,
High Court, Madras.



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M.DHANDAPANI, J.,

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