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C.M.A.No.2657 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2023

CORAM :

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

C.M.A.No.2657 of 2012

1.Arokiyasamy (died)
2.Sagayamary
3.Alex Pandian
4.A.Anand
5.A.Mariapushpam ... Appellants

[A2 to A5 brought on record as LR's of the deceased sole appellant viz., Arokiyasamy vide order dated 05.04.2023 in C.M.P.Nos.17589 to 17591 of 2017 in C.M.A.No.2657 of 2012]

Vs.

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
12, Ramakrishna Road,
Salem – 7. ... Respondent/Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Judgement and Decree dated 27.06.2011 made in M.C.O.P.No.380 of 2007 on the file of the Motor Accident Claims Tribunal, Principal Subordinate Judge, Salem.

For Appellants : Mr.K.Kuppuswamy

For Respondent : No appearance



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JUDGEMENT

The appeal is preferred by the claimant not satisfied with the compensation awarded by the Motor Accidents Claims Tribunal, Principal Subordinate Judge, Salem.

2. On 07.07.2006 at about 11.00 hours, the claimant was riding his TVS motorcycle bearing Reg.No.TN 30 11 8879 along with his wife as pillion rider, on the Salem to Belur main Road, following all the traffic rules and regulations. At that time, the respondent vehicle bearing Reg.No.TN 27 N 1005 came from the opposite direction and the driver of the bus driven the same in a rash and negligent manner and dashed against the claimant and thereby, he sustained grievous injuries all over his body and he was admitted as inpatient in the Government Hospital, Salem from 07.07.2006 to 20.07.2006. Thereafter, he filed a petition claiming a sum of Rs.5,00,000/- as compensation. However, the said claim was rejected on the ground that the claimant had not produced the Accident Register (AR) copy. Aggrieved over the same, the claimant has preferred the present appeal.

3. The learned counsel appearing for the appellants submitted that,



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vide order dated 26.04.2016, this Court had disposed of the present appeal by remitting the matter to the Court below to decide the case on merits and in accordance with law. However, subsequently, the said order was recalled on 06.09.2017, since the claimant died prior to 26.04.2016 and directed the Registry to list this appeal on 13.09.2017 along with impleading petition. Further, he submitted that the even the legal heirs were impleaded as party in this appeal, they are not able to trace the AR copy to mark the same as document. Accordingly, he prays for appropriate orders.

4. Heard the learned counsel appearing for the appellants and perused the materials available on record.

5. Admittedly, at the time of accident, the claimant was aged about 47 years and working as a Head Constable at Commissioner of Police, Salem. It is the claimed by the appellants that, the accident had occurred due to the negligence of the driver of the respondent bus. It is also claimed by the appellants that, immediately after the accident, the claimant was admitted in the hospital, thereby, he was not able to



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produce the AR copy before the Tribunal. This Court is of the view that the AR copy is the only document which will reveal the nature of injuries sustained by him and the manner in which the accident had occurred. However, without producing AR copy before the Tribunal or before this Court, claiming compensation against the Insurance Company is not sustainable. In the absence of AR copy or any medical records immediately after the accident, the Tribunal had rejected the claim of the claimant, which cannot be found fault with. Therefore, this Court is not inclined to interfere with the order passed by the Tribunal.

6. Accordingly, the Civil Miscellaneous Appeal is dismissed and the judgment and decree dated 27.06.2011 made in M.C.O.P.No.380 of 2007 on the file of the Motor Accidents Claims Tribunal, (Principal Subordinate Judge), Salem is confirmed. No costs.

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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To



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- 1.The Motor Accidents Claims Tribunal (Principal Subordinate Judge),
Salem.
- 2.The Section Officer,
V.R.Section,
High Court, Madras.



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M.DHANDAPANI, J.,

sp

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