



C.M.A.No.2789 of 2014

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 09.01.2023	Pronounced on 21.02.2023
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.A.No.2789 of 2014
and M.P.No.1 of 2014

Royal Sundaram Alliance Insurance Co. Ltd.,
Sundaram Towers, 45, Whites Road,
Chennai – 14.

... Appellant

Vs.

1.Gousalyamani
2.Minor Sivajeevitha
3.Minor Lavanya
4.Palanisamy Gounder (Died)
5.N.Dhanasekaran
6.Vanjimuthu
7.The New India Assurance Co. Ltd.,
Branch Office, 453, Big Bazaar Street,
Dharapuram – 638 656.

... Respondents

[RR1 to 3 LR's of R1 as per order
dated 19.03.2014 made in
CMA.No.2789 of 2014 in
M.P.No.1 of 2014 vide Memo
dated 23.12.2020 (SR 21069)]

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988, against
the judgment and decree dated 23.01.2012 made in M.C.O.P.No.389 of 2008 on



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the file of the Motor Accidents Claims Tribunal (Subordinate Judge),
Dharapuram.

For Appellant : Mr.M.Krishnamoorthy

For Respondents

For RR1 to 4 : Mr.Sai Srujan Tayi
Legal Aid Counsel

For RR5 & 6 : Exparte

For R7 : Mr.S.Dhakshnamoorthy

J U D G M E N T

The Appeal has been filed against the judgment and decree dated 23.01.2012 made in M.C.O.P.No.389 of 2008 on the file of the Motor Accidents Claims Tribunal (Subordinate Judge), Dharapuram.

2.Mr.K.Krishnamoorthy, the learned counsel appearing for the appellant submitted that even as per Ex.P1, P3 and Ex.R1, the accident has taken place due to the rash and negligence on the part of the driver of the lorry which was proceeding from North to South (Chennai to Tindivanam), a Van insured with the appellant insurance Company, was coming from South to North (Madurai to Chennai) and met with accident, due to the rash and negligence on the part of



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the Driver of the Lorry (deceased). Hence, 50% contributory negligence was fixed on the part of the driver. He also drew my attention to Ex.R1/Final Report and Ex.R2/Rough Sketch.

3.The learned counsel for the seventh respondent (fourth respondent before the Tribunal) would contend that as against the award, they have preferred C.M.A.No.2732 of 2012 before this Court, which was dismissed at the admission stage itself confirming 50% of liability on both side and hence, the same order may be passed in this case. He would further contend that the rough sketch cannot be a sole criteria for deciding the issue as to whether there is a contributory negligence or not.

4.After perusing the order passed in the connected C.M.A.No.2732 of 2012, wherein this Court has held that the driver of both the vehicles are equally negligent and accordingly, the Tribunal had fixed the contributory negligence at 50% each and hence, I am not inclined to take a different view in the matter.

5.Based upon the evidence let in before the Trial Court, I find that the Tribunal has rightly come to a conclusion that the contributory negligence can



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be fixed at 50% each by the driver of both colluding vehicles. Such finding appears to have been correct and hence, this civil miscellaneous appeal is devoid of merits.

6. Accordingly, the civil miscellaneous petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

21.02.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
ata

To

The Presiding Officer,
Motor Accidents Claims Tribunal,
Dharapuram.



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RMT.TEEKAA RAMAN.J,

ata

Pre-delivery Judgment made in

C.M.A.No.2789 of 2014

Dated: 21 .02.2023