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C.M.A. No.1441 of 2022 & Cross Obj. No.95 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.06.2024

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A. No.1441 of 2022 & Cros. Obj. No.95 of 2023 and
C.M.P. Nos.10585 of 2022 & 27275 of 2023

C.M.A. No.1441 of 2022

The Branch Manager,
The New India Assurance Co. Ltd.,
Branch Office, Namakkal.

.. Appellant

vs.

1.Madhaiyan

2.R.Ponnusamy

3.The Managing Director,
Tamil Nadu State Transport
Corporation (Salem) Ltd.,
Salem-7.

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 05.01.2022 made in M.C.O.P. No.76 of 2017 on the file of the Motor Accidents Claims Tribunal, Special Sub Court (MACT), Krishnagiri.

For Appellant

: Mr.M.Krishnamoorthy

For Respondents

: Mr.S.P.Yuaraj for R1
R2-set exparte
R3-No appearance



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Cros. Obj. No.95 of 2023

Madhaiyan

.. Cross Objector

VS.

1.The Branch Manager,
The New India Assurance Co. Ltd.,
Branch Office, Namakkal.

2.R.Ponnusamy

3.The Managing Director,
Tamil Nadu State Transport
Corporation (Salem) Ltd.,
Salem-7.

.. Respondents

Prayer: Cross Objection filed under Order 41 Rule 22 of C.P.C. against the judgment and decree dated 05.01.2022 made in M.C.O.P. No.76 of 2017 on the file of the Motor Accidents Claims Tribunal/Special Sub Court, Krishnagiri.

For Cross Objector : Mr.S.P.Yuaraj

For Respondents : Mr.M.Krishnamoorthy for R1
R2-set exparte
R3-No appearance

COMMON JUDGMENT

This appeal has been filed by the Insurance Company, challenging the impugned award questioning its liability to pay compensation since according to them, the driver of the lorry, insured with the Insurance



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Company was not responsible for the cause of the accident. They have also questioned the quantum of compensation awarded by the Tribunal.

2. According to the Insurance Company, being a stationery lorry, the vehicle insured with the Insurance Company was not responsible for the cause of the accident. It is also their case that the FIR and the charge sheet were filed only against the bus, owned by the Transport Cooperation.

3. The claimant has also filed Cross Objection in Cros. Obj. No.95 of 2023 in the appeal seeking for enhancement of compensation. As seen from the evidence available on record, the claimant had sustained grievous injuries. In the Cross Objection, the claimant has filed C.M.P. No.27275 of 2023 seeking for reception of additional documents, i.e. original medical bills of 5 Nos. According to the claimant, the total amount of the medical bills, for which leave is sought for from this Court for filing the same as additional documents, amounts to more than Rs.10,00,000/-. According to the claimant, the same was not filed before the Tribunal and therefore, according to him, the said amount has to be



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granted as additional compensation in addition to the compensation awarded by the Tribunal under the impugned award.

4.Learned counsel for the Insurance Company would contend that involving the very same accident, based on a complaint given by a passenger of the bus, owned by the Transport Corporation, a charge sheet was filed against the driver of the bus, involved in the accident and based on the same, another Tribunal had passed an award holding the driver of the bus, owned by the Transport Corporation alone responsible for the cause of the accident. He would also submit that the medical bills produced by the claimant before this Court, for which leave is sought for in C.M.P. No.27275 of 2023 is also disputed by the Insurance Company.

5.Since the contentions of both the parties, as referred to supra, have not been considered and the materials were not available before the Tribunal, this Court deems it fit to set aside the impugned award and remand the matter back to the very same Tribunal for fresh consideration. No prejudice would be caused to both parties if the matter is remanded back to the very same Tribunal for fresh consideration.



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6.For the foregoing reasons, the impugned award passed by the Tribunal is hereby set aside and the matter is remanded back to the very same Tribunal i.e., the Motor Accidents Claims Tribunal, Special Sub Court, Krishnagiri in M.C.O.P. No.76 of 2017 for fresh consideration, on merits and in accordance with law by permitting both the Insurance Company and the claimant to let in additional oral and documentary evidence. The Tribunal is directed to pass an award after considering all the materials and documents available on record within a period of four months from the date of receipt of a copy of this order. The original record of the medical bills, produced by the claimant before this Court is directed to be returned to the claimant by the registry. Accordingly, the appeal is disposed of and the Cross Objection is closed. No costs. Consequently, connected petitions are closed.

24.06.2024

vga

To

- 1.The Motor Accidents Claims Tribunal,
Special Sub Court, Krishnagiri.
- 2.The Section Officer,
V.R. Section, High Court, Madras.



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ABDUL QUDDHOSE, J.

vga

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24.06.2024