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CMA.No.2811 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

C.M.A.No.2811 of 2024 and
C.M.P. No.22792 of 2024

United India Insurance Company Limited,
104-A, Peramanur Main Road,
Peramanur, Salem 636 007.

... Appellant

VS.

1.Kandasamy
2. MSB Services,
No.3, Car Street,
Thiruchengodu Taluk,
Namakkal 637 211

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the Award dated 14.12.2023 in M.C.O.P.1295/2019 on the file of the Motor Accident Claims Tribunal, Special Sub-court No.I, Salem.

For Appellant : Mr. S. Arun Kumar

For Respondents: No appearance

JUDGMENT



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The present appeal is filed by the United India Insurance Company Limited, as against the orders in M.C.O.P.1295/2019 on the file of the Motor Accident Claims Tribunal, Special Sub-court No.I, Salem.

2. The first respondent/complainant filed the abovesaid Claim Petition seeking compensation of Rs. 25,00,000/- for the injuries sustained by him in a road accident that occurred on 08.03.2015.

3. On 08.03.2015, the claimant was riding his two wheeler bearing Registration No.TN 30 AY 2665 on Ariyanur-Attayampatti Main Road and a speeding bus bearing Registration Number TN 34 R 1112 hit his two wheeler as a result of which he fell down and sustained injuries all over his body. He was immediately rushed to a nearby hospital. According to the claimant, the rash and negligent driving of the driver of the bus bearing Registration Number TN 34 R 1112 was the cause of the accident and that since the said bus was insured with the present appellant, they are liable to pay compensation to him.

4. In the Tribunal the the owner of the bus remained absent



and was set *ex parte*. The appellant insurance company resisted the claim petition on all the grounds available to the insurer under Section 170 of the Motor Vehicles Act.

5. The Tribunal, after analysing the evidence on record, fastened negligence on the part of the driver of the bus bearing Registration Number TN 34 R 1112 and the claimant in the ratio 70:30 and directed the appellant Insurance Company to pay compensation of Rs.1,63,420/- (70% of the total compensation of Rs.2,33,457/-) to the claimant together with interest at the rate of 7.5% per annum from the date of the petition till the date of realisation. The Tribunal further held that the liability of the owner of the offending vehicle and the insurer is joint and several.

6. Questioning the negligence fastened on the part of the driver of the bus bearing Registration Number TN 34 R 1112, the appellant, the United India Insurance Company Limited, Salem, has filed the present appeal.

7. This Civil Miscellaneous Appeal is listed before this Court for admission and the same is decided in the admission stage itself.



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8. Mr.S. Arun Kumar, learned counsel appearing for the appellant Insurance Company contended that though FIR in Crime No.109/2015, Attayampatti Police Station, was registered against the claimant, the Tribunal had wrongly fastened negligence on the part of the driver of the bus. He therefore, prayed for setting aside the order of the Tribunal.

9. A perusal of the records shows that FIR was registered against the claimant and the Investigation officer, Attayampatti Police Station, after conducting investigation, filed a final report against the claimant before the Judicial Magistrate IV, Chennai, in STC No.109/2017. It is needless to state that the criminal case may not be binding on the Motor Accident Claims Tribunal. Moreover, the claimant examined himself and two other witnesses to prove negligence on the part of the driver of the bus. The manner of accident clearly shows that the driver of the bus was also rash and negligent in driving his vehicle. Therefore, the Tribunal was right in fastening 70% negligence on the part of the driver of the bus. In the circumstances, I do not find any reason to set



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aside the orders passed by the Tribunal and therefore, the appeal stands dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

21.10.2024

Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes / No
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R.HEMALATHA, J.

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To

1. Motor Accident Claims Tribunal, Special Sub-court No.I, Salem.
2. The Section Officer, VR Section, Madras High Court, Chennai.

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C.M.P. No.22792 of 2024

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