



Civil Miscellaneous Appeal No.1637 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1637 of 2022

I.Jayakodi
W/o.K.Rajendran

... Appellant

Vs.

1.T.N.Gopinath
S/o.Venkateshverma

2.The Reliance General Insurance Co. Ltd.,
Ral's Tower Plot No.2054 2nd Avenue,
2nd Floor, Next to Senthil Nursing Home,
Anna Nagar, Chennai - 40 Branch Office
having at Lakshmi Complex,
Omalur Main Road, Swarnapuri,
Salem - 4.

3.Manoharan
S/o.Muthusamy

4.Vijayakumar
S/o.Ramasamy Gounder

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree in M.C.O.P.No.463 of 2015, dated 24.06.2019, by the Motor Accident Claims Tribunal, III



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Additional District Judge, Salem.

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For Appellant : Mr.R.Nalliappan
For Respondents : Mr.M.S.Raghavan
for Mr.M.B.Gopalan Associates [R2]
Mr.A.Sriram [R4]

JUDGMENT

The appellant/claimant has filed the present appeal against the award passed by the Motor Accident Claims Tribunal, III Additional District Judge, Salem, in M.C.O.P.No.463 of 2015, dated 24.06.2019, mainly on the ground that the Tribunal had attributed entire negligence on the lorry driver and had directed the lorry driver to pay the compensation in this case instead of directing the insurance company in which the car was insured by the first respondent.

2. Heard Mr.R.Nalliappan, learned counsel for appellant/claimant and Mr.M.S.Raghavan, learned counsel for second respondent insurance company and Mr.A.Sriram, learned counsel for fourth respondent.

3. The case of the appellant is that she was travelling in the car that



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was driven by the third respondent on 17.07.2011 and at about 7.40 a.m., the car crossed Ulundurpet and was moving in Salem road. At that time, the offending vehicle *viz.*, lorry was driven by the fourth respondent in a rash and negligent manner and as a result, the lorry dashed on the left side of the car and as a result, the appellant/claimant sustained grievous injuries. The appellant/claimant has also alleged that the driver of the car had lost the control due to the rash and negligent driving of the lorry and has also contributed for the accident. It is under these circumstances, the claim petition came to be filed before the Tribunal seeking for compensation.

4. The Tribunal, on considering the evidence of PW-1 to PW-4 and also RW-1 to RW-3, came to a conclusion that the offending vehicle in this case was the lorry and the First Information Report was pending only as against the lorry and whereas an attempt has been made by the appellant/claimant to put the blame on the car driver and claim compensation from the insurance company with which the car was insured. In view of the same, it was held that the car driver was not responsible for the accident and hence, the insurance company cannot be made liable in this case. Secondly, the entire liability was fixed on the



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lorry driver and the owner of the lorry was directed to pay the entire compensation of Rs.48,32,000/- with interest at the rate of 7.5% p.a.

5. The finding of the Tribunal does not suffer from any illegality or infirmity since such a finding has been rendered on proper appreciation of the evidence of witnesses in this case. Unfortunately, in this case, the lorry was not insured and therefore, due to desperation, a new case has been brought out by the appellant/claimant as if the car driver was negligent in driving the car. The Tribunal found that the car driver was the close relative of the appellant/claimant and if really the car driver was negligent in driving the car, not even a complaint was given against him. That apart, the car driver was also examined as a witness in this case and he categorically stated that it is only the lorry driver, who had driven the lorry in a rash and negligent manner and caused the accident. Therefore, there is no ground to interfere with the award passed by the Tribunal and the same has to be necessarily confirmed. As held by the Tribunal, the entire negligence is on the part of the lorry driver and the fourth respondent is liable to pay the entire compensation with interest to the appellant/claimant as directed by the Tribunal.



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6. The fourth respondent is directed to deposit the compensation awarded by the Tribunal together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered.

In the result, this Civil Miscellaneous Appeal is dismissed. No costs.

24.04.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

gm

To

The Motor Accident Claims Tribunal,
III Additional District Judge, Salem.

N.ANAND VENKATESH, J

gm



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