



C.M.A.(MD)Nos.1092,1096 and 1013 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : **30.09.2024**

CORAM :

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A(MD)Nos.1092, 1096 and 1013 of 2024
and C.M.P(MD)Nos.10472, 11353 and 11404 of 2024

CMA(MD)No.1092 of 2024:

The Branch Manager,
The New India Assurance Co Ltd.,
Branch II, Juman Center, No.43A/2.
Promenade Road,
Cantonment,
Trichy – 1

...Appellant/2nd Respondent

Vs.

1.C.Premkumar

...1st Respondent/Petitioner

2.C.Santhoshkumar

...2nd Respondent/1st Respondent

3.Mukila

4.The Regional Manager,
M/s. Shriram General Insurance Co Ltd.,
E-8, EPIP, RICO, Industrial Area,
Sitapura, Jaipur, Rajasthan – 302 022.

5.The Divisional Manager,
M/s.,Shriram General Insurance Co Ltd.,
No.C-135-A, Meenakshi Towers,
1st Floor, 5th Cross Street, Thillai Nagar,
Trichy.

...Respondents 3 to 5/Respondents 3 to 5



C.M.A.(MD)Nos.1092,1096 and 1013 of 2024

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and award dated 13.07.2023 passed in M.C.O.P.No.25 of 2020 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Trichy.

CMA(MD)No.1096 of 2024:

The Branch Manager,
The New India Assurance Co Ltd.,
Branch II, Juman Center, No.43A/2.
Promenade Road,
Cantonment,
Trichy – 1

...Appellant/2nd Respondent

Vs.

1.A.Chandrasekaran
2.C.Santhoshkumar

...1st Respondent/Petitioner
...2nd Respondent/1st Respondent

3.Mukila

4.The Regional Manager,
M/s. Shriram General Insurance Co Ltd.,
E-8, EPIP, RICO, Industrial Area,
Sitapura, Jaipur, Rajasthan – 302 022.

5.The Divisional Manager,
M/s.,Shriram General Insurance Co Ltd.,
No.C-135-A, Meenakshi Towers,
1st Floor, 5th Cross Street, Thillai Nagar,
Trichy.

...Respondents 3 to 5/Respondents 3 to 5

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and award dated 13.07.2023 passed in M.C.O.P.No.26 of 2020 on the file of the Motor



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Accident Claims Tribunal, Special Subordinate Judge, Trichy.

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CMA(MD)No.1013 of 2024:

The Branch Manager,
The New India Assurance Co Ltd.,
Branch II, Juman Center, No.43A/2.
Promenade Road,
Cantonment,
Trichy – 1

...Appellant/2nd Respondent

Vs.

1.C.Suseela

...1st Respondent/Petitioner

2.C.Santhoshkumar

...2nd Respondent/1st Respondent

3.Mukila

4.The Regional Manager,
M/s. Shriram General Insurance Co Ltd.,
E-8, EPIP, RICO, Industrial Area,
Sitapura, Jaipur, Rajasthan – 302 022.

5.The Divisional Manager,
M/s.,Shriram General Insurance Co Ltd.,
No.C-135-A, Meenakshi Towers,
1st Floor, 5th Cross Street, Thillai Nagar,
Trichy.

...Respondents 3 to 5/Respondents 3 to 5

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and award dated 13.07.2023 passed in M.C.O.P.No.27 of 2020 on the file of the Motor Accident Claims Tribunal, Special Subordinate Judge, Trichy.

In three appeals:

For Appellant	: Mr.R.Ramadurai
For R1	: Mr.K.M.Karunakaran
For R4 & R5	: Mr.D.Sivaraman
For R2 & R3	: No appearance



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COMMON JUDGMENT

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These appeals have been filed challenging the finding on liability.

2. The 1st respondent in all the appeals had filed claim petitions stating that while they were travelling in a Car belonging to the 2nd respondent, a lorry insured with the 5th respondent was parked in the middle of the road in a negligent manner without warning any signal, and due to poor visibility, the driver of the Car hit against the parked lorry, as a result of which, the claimants sustained grievous injuries.

3. The owner of both the Car and the Lorry remained exparte before the Tribunal.

4. The appellant filed a counter stating that the driver of the Car, which was insured with the appellant, was not at fault as the Lorry was parked in the middle of the road without any indicators and therefore, they are not liable to pay compensation.

5. The 5th respondent herein, who is the insurer of the Lorry, stated that the Lorry was parked on the extreme left side of the road by following



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the traffic rules and also by exhibiting indications, and therefore, they are not liable to pay compensation.

6. Before the Tribunal, the claimants examined P.W.1 to P.W.4 and marked Ex.P.1 to Ex.P.36. The 5th respondent examined R.W.1 and marked Ex.R.1 to Ex.R.4. The appellant neither examined witnesses nor marked documents. Ex.C.1 to Ex.C.4 were also marked.

7. The Tribunal, after taking into consideration the oral and documentary evidence, held that the accident took place only due to the rash and negligent driving of the Car, which was insured with the appellant and directed the appellant to pay compensation.

8. The learned counsel for the appellant submitted that the claimants, who were examined as P.W.1 to P.W.4 before the Tribunal, have uniformly stated that the accident took place only due to the negligence of the Lorry driver, who parked the Lorry in the middle of the road without any indications; that P.W.1 had stated that the road was bent and therefore, the visibility was poor and the driver of the Car could not be attributed with negligence; and that in any case, the Tribunal ought to have fixed contributory negligence on the lorry driver, who had parked the Lorry in the



middle of the road.

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9. The learned counsel for the 5th respondent, per contra, submitted that the evidence before the Tribunal including the rough sketch prepared by the police during investigation in the criminal case clearly established that the Lorry was parked on the left side of the road; that since the accident took place in broad day light, no negligence can be attributed to the Lorry driver, who was admittedly changing the tyres as one of the tyres got punctured; that the police conducted an investigation; and that after completion of the investigation, filed a final report only against the driver of the Car.

10. The point for consideration in the instant appeal is whether the finding on negligence is justified.

11. This Court has given its anxious consideration to the submissions made by the learned counsel for the appellant, learned counsel for the 1st respondent and the learned counsel appearing for the respondents 4 and 5 and carefully perused the materials available on record.

12. P.W.1 to P.W.4, who had travelled in the Car insured with the



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appellant, have stated that the Lorry was parked in the middle of the road and the Lorry driver was responsible for the accident. However, in the cross-examination they admitted that the Lorry driver had parked the lorry and was changing the tyre and also admitted that the lorry was parked outside puncture shop and the accident took place at 1.00 p.m. The complaint was lodged by the lorry driver, since all the passengers in the Car were injured. The police, after investigation, filed a final report against the Car driver. The rough sketch marked as Ex.P.2 would suggest that the Lorry was parked on the left side of the road and not in the middle of the road as deposed by P.W.1 to P.W.4. P.W.1 to P.W.4 admittedly are closely related to the driver of the Car insured with the appellant and they are all interested witnesses. In the light of the other evidence on record, including the final report and the rough sketch, this Court is of the view that the finding of the Tribunal holding the driver of the Car guilty of negligence cannot be faulted. Hence, the appellant would be liable to pay compensation. The quantum of compensation is not under challenge. Hence, the award of the Tribunal is confirmed.

13. The appellant is directed to deposit the compensation amount awarded by the Tribunal namely **Rs.1,12,498/- in CMA(MD)No.1092 of 2024, Rs.1,88,413/- in CMA(MD)No.1096 of 2024 and Rs.3,16,205/- in**



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CMA(MD)No.1013 of 2024 with interest at the rate of 7.5% from the date of petition till the date of deposit within a period of four weeks from the date of receipt of a copy of this order less the amount already deposited. On such deposit, the claimants are permitted to withdraw the compensation amount by filing a suitable application.

14. In fine, the appeals are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

30.09.2024

Index : Yes / No
Neutral Citation : Yes / No
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To

1. Motor Accident Claims Tribunal,
Special Subordinate Judge, Trichy.

2. The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,Madurai.



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SUNDER MOHAN, J.

CM

Judgment made in
C.M.A(MD)Nos.1092, 1096 and
1013 of 2024
and C.M.P(MD)Nos.10472, 11353 and
11404 of 2024

30.09.2024