



C.M.A(MD)No.1250 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 08.07.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.1250 of 2015

and

M.P.(MD).No.1 of 2015

The Branch Manager,
Reliance General Insurance Company Limited,
No.10/4/4, Daya Plaza,
South Bye Pass Road,
Vannarapet,
Tirunelveli – 3.

... Appellants

Vs.

1.Mariappan

2.P.Manthiram

3.The Managing Director,
Tamil Nadu State Transport Corporation,
(Tirunelveli Division),
South Bye Pass Road,
Vannarpet, Tirunelveli – 3.

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, praying to set aside the fair and decreetal order dated 13.02.2015 made in M.C.O.P.No.139 of 2014 on the file of the Motor Accident Claims Tribunal, (Special Sub Court), Tirunelveli and allow this civil miscellaneous appeal.



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For Appellant : Mr.V.Sakthivel
For Respondent No.1 : Mr.T.Selvakumaran
For Respondent No.2 : No appearance
For Respondent No.3 : Mr.P.Prabhakaran

JUDGEMENT

This Civil Miscellaneous Appeal is filed by the Insurance Company to set aside the Fair and Decreetal order dated 13.02.2015 passed in M.C.O.P.No.139 of 2014 on the file of the Motor Accident Claims Tribunal, (Special Sub Court), Tirunelveli and allow this civil miscellaneous appeal.

2. The Insurance Company has preferred this Appeal. It is a case of injury. The accident happened while the victim was travelling in the Transport Corporation bus. The victim had put his hand protruding outside through the window. The offending vehicle which is a mini bus came from opposite direction. Due to rash and negligent driving of the Transport Corporation bus the offending vehicle has hit the claimant and the victim had suffered 55% disability. The Trial Court has taken multiplier method and granted compensation.



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3. The contention of the Transport Corporation is that the tortfeasor is a driver of the mini bus and the mini bus was insured with the Insurance Company. But the contention of the Insurance Company is that since the Tortfeasor is Transport Corporation bus, they are not liable to pay compensation.

4. After hearing submissions, this Court is of the considered opinion that the accident had happen when the Transport Corporation bus and the mini bus were running in opposite direction to each other and rubbed the hand of the victim. Therefore, both Transport Corporation and Mini Bus are liable to pay compensation. It is seen that the injured had preferred claim against the mini bus alone, since the mini bus was insured, the Insurance Company was made liable. Further it is seen that while travelling in the Transport Corporation bus the injured had extended his hand protruding through window and therefore, the claimant is also negligent. Therefore, this Court is fixing liability on all the three persons. Accordingly, the Insurance company is directed to pay 70% and the Transport Corporation is liable to pay 20% and 10% contributory negligence is also fixed on the claimant also.



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5. The Tribunal has granted a sum of Rs.7,02,200/-, as compensation. Out of which, the Insurance company is liable to pay 70% [Rs.4,91,540/-] and the Transport Corporation is liable to pay 20% [Rs.1,40,440/-]. Therefore, both the Insurance Company and the Transport Corporation is directed to deposit the same, within a period of Six weeks from the date of receipt of a copy of the order, less the amount if already deposited. On such deposit being made, the claimant is entitled to withdraw the same.

6. With the above observations, this Civil Miscellaneous Appeal is partly allowed. No Costs. Consequently, connected miscellaneous petition is closed.

08.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To

1. The Motor Accident Claims Tribunal,
(Special District Judge), Tirunelveli.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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**Order made in
C.M.A(MD)No.1250 of 2015**

08.07.2024