



C.M.A.Nos.2771 & 2781 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.11.2025

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

AND

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.M.A.Nos.2771 & 2781 of 2021

The New India Assurance Co. Ltd. ... Appellant in both appeals

vs

1.Manigandan

2.Ajitsingh and Sons HUF ... Respondents in C.M.A.No.2771/2021

1.Priyadharshini

2.Minor Siddharth
(rep. by his next friend/mother
Priyadharshini, 1st respondent)

3.Mariyammal

4.Dhanapal

5.Ajitsingh and Sons HUF ... Respondents in C.M.A.No.2781/2021

PRAYER : C.M.A.No.2771 of 2021 is filed against the award, dated 13.07.2020, passed in M.C.O.P.No.912 of 2018 on the file of Motor Accident Claims Tribunal (Special District Court), Dharmapuri.



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PRAYER : C.M.A.No.2781 of 2021 is filed against the award, dated 13.07.2020, passed in M.C.O.P.No.891 of 2018 on the file of Motor Accident Claims Tribunal (Special District Court), Dharmapuri.

For Appellant in both appeals : Mr.S.Dhakshnamoorthy

For Respondents in both appeals : No appearance

JUDGMENT

(By Dr.G.Jayachandran,J.)

These two appeals by the insurance company are directed against the award passed by the Motor Accident Claims Tribunal (Special District Court), Dharmapuri.

2. The claim petition of Manigandan was taken on file in M.C.O.P.No.912 of 2018 for compensation of Rs.10.00 lakhs for the injury sustained by him when he travelled in the container lorry bearing registration number TN30BX 3890 as a gratuitous passenger near Pennagaram overbridge. The driver of the said lorry dashed behind another container lorry bearing registration number HR38U 8723, since the latter lorry slowed down suddenly without any indication, applying sudden breaks. In the said accident, the claimant sustained fractured injury and got admitted as inpatient in the hospital from 06.10.2018 and discharged on 12.10.2018. Due



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to the said injury, he was not able to carry on his day-to-day life and avocation.

3. The claim petition was contested by the insurance company, on the ground that the manner in which the accident occurred and narrated in the claim petition was not correct; in fact, it was the negligence of the lorry driver Murugan, which caused the accident. He drove the lorry in a rash and negligent manner and hit the lorry from behind, without proper care. The claimant, who claimed to be a gratuitous passenger, was a friend of the lorry driver, who caused the accident due to his negligence and, therefore, the insurance company was not liable to pay any compensation. It was also contended that the lorry in which the claimant was travelling had no valid document and the lorry driver also had no valid licence and that, being an unauthorised person in the cabin, he was not entitled for any compensation.

4. The Tribunal, considering the evidence placed by the claimants and the insurance company, had gone into the injury certificate issued by the hospital, which was marked as Ex.P-17, wherein, it was noted that the injured suffered Type II open right patella fracture, laceration on right leg with fibula fracture and laceration on right foot. His period of treatment as inpatient was taken into account and a total sum of Rs.83,000/- was ordered as compensation.



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5. C.M.A.No.2771 of 2021 is filed by the insurance company, stating that the injured passenger in the lorry, which was driven rashly and negligently by its driver, is not entitled for any compensation. As an additional document, the insurance company has filed final report of the police, which has investigated into the accident and concluded that the accident occurred not in the manner in which the claim petitioner has narrated, but it was purely due to rash and negligent driving of the lorry by its driver, in which the claimant was travelling.

6. This Court is also dealing with a connected appeal in C.M.A.No.2781 of 2021, in which the driver of the lorry, by name, Murugan died in the accident and his claim petition, under similar set of facts, was considered by the Tribunal and a sum of Rs.27,60,400/- was awarded as compensation. He being the driver and now additional evidence indicates that the accident occurred due to his negligence whereas the claimant in C.M.A.No.2771 of 2021 has no role regarding the negligence, we are of the view that the award passed by the Tribunal in so far as M.C.O.P.No.912 of 2018 filed by Manigandan needs no interference and, therefore, C.M.A.No.2771 of 2021 is liable to be dismissed.

7. As for C.M.A.No.2781 of 2021 filed by the dependants of the deceased Murugan, the Tribunal, taking note of the fact that the deceased was



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8. The short point for consideration is, whether Murugan, driver of the container lorry bearing registration number TN30BX 3890, drove the lorry in a rash and negligent manner and hit the container lorry bearing registration No.HR 38U 8723 or the accident occurred due to negligent driving of the container lorry bearing registration number HR38U 8723, which suddenly slowed down without any indication ?

9. The Tribunal, based on the evidence of P.W.2 – Manigandan, the gratuitous passenger travelling in the lorry and who sustained injury, had fixed the entire negligence on the container lorry proceeding ahead of the lorry, which the victim Murugan was driving.



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10. However, now, final report of the police, who investigated the accident in crime No.684 of 2018, is placed before this Court, in which, after completion of investigation, it was found that Murugan, driver of the lorry bearing registration number TN30BX 3890, was the tortfeasor.

11. Learned counsel for the appellant insurance company, relying upon this additional document, submitted that the victim himself being the tortfeasor, the insurance company need not indemnify the loss. Further, the tortfeasor was the owner of the lorry, which he was driving, and there was no material to show that the vehicle was insured and the driver was covered under insurance. He would contend that in the absence of these material, the appellant should not be fastened with liability to pay the tortfeasor.

12. This Court is conscious of the fact that the final report by police in a criminal case is not a conclusive proof and it cannot be the basis to fix the negligence on the part of the victim - Murugan. However, the evidence, as spoken to by P.W.2, who was a gratuitous passenger, cannot be taken as a gospel truth, since he is an interested witness. In the said circumstances, to strike a balance, this Court is of the view that 10% of the total award amount ordered to be paid as compensation to the victim claimant in M.C.O.P.No.891 of 2018, which comes to Rs.2,76,040/-, be deducted for contributory negligence. In all other aspects, the award stands confirmed.



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13. It is reported by the learned counsel for the appellant that 50% of the award amount is already deposited as per the order of this Court. If so, the appellant insurer shall deposit the balance award amount within a period of eight weeks.

14. In the result, C.M.A.No.2771 of 2021 is dismissed and C.M.A.No.2781 of 2021 is allowed in part. No costs. Consequently, the connected C.M.P.Nos.15827 and 15877 of 2021 are closed.

dixit

(DR.G.J.,J.) (M.S.K.,J.)
12.11.2025

To

Motor Accident Claims Tribunal-cum-
Special District Court,
Dharmapuri.



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DR.G.JAYACHANDRAN,J.
AND
MUMMINENI SUDHEER KUMAR, J.

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