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C.M.A.No.1842 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.01.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.1842 of 2019

And

C.M.P.No.6117 of 2019

Shriram General Insurance Company Ltd.,
10003-E-8, RIICO Industrial Area,
Sitapura, Jaipur,
Rajasthan – 302 002.

... Appellant

Vs.

1.R.Prakash (Died)
2.Rathnam
3.S.G.Venkataratnamma
4.Sudharani
5.Nandini P
6.Praveen Kumar P.
(Respondents 4 to 6 are brought on record
as LR's of the deceased R-1 Viz.R.Prakash
vide Court order dated 16.12.2024 made
in CMP Nos.27025, 27026 and 27028 of 2024
in CMA No.1842 of 2019 and
CMP No.6117 of 2019 by MDIJ)

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment dated 03.02.2013 made in M.C.O.P.No.3000 of 2013, on the file of the Motor Accidents Claims Tribunal (Special Sub Court), Krishnagiri, and be pleased to dismiss the claim for compensation.



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For Appellant : Mr.S.Dhakshnamoorthy

For Respondents : R1 – Died (steps taken)
Mr.S.P.Yuvaraj for R4 to R6
R2 – NRN
R3 – No Appearance (Sd)

J U D G M E N T

The third respondent before the Motor Accidents Claims Tribunal is the appellant herein. This appeal has been filed against the decree and judgment dated 03.02.2013 made in M.C.O.P.No.3000 of 2013, on the file of the Motor Accidents Claims Tribunal (Special Sub Court), Krishnagiri.

2.The learned counsel appearing for the appellant submitted that the first respondent filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.15 Lakhs alleging that on 14.12.2010 at about 23.00 hours, the first respondent was driving the tempo traveler bearing Registration No.KA.04/B.6162 in Chennai to Krishnagiri NH 46 Road at Subhedar Medu Junction Road. At that time, the driver of the lorry bearing Registration No.AP.27/X.0099 which was going in front of the tempo traveler suddenly stopped tempo in the middle of the road without any signal, due to which, the



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tempo traveler hit on the backside of the lorry and the occupants of the tempo traveler including the first respondent sustained injuries.

3.The learned counsel appearing for the appellant further submitted that after adjudication, the Tribunal awarded a sum of Rs.10,00,000/- as compensation to the first respondent claimant along with interest at 9% p.a. from the date of filing of the claim petition till the date of deposit with proportionate costs and directed that the respondents therein/ respondents 2, 3, appellant herein are jointly and severally liable to pay the compensation. The learned counsel further submitted that the first respondent died during the pendency of this appeal and his legal heirs are brought on record as respondents 4 to 6.

4.The learned counsel appearing for the appellant further submitted that the first respondent is the driver cum owner of the tempo traveler bearing Registration No.KA.04/B.6162 and in respect of the very same accident, the occupants of the tempo traveler already filed claim petitions before the Court of Small Causes, Bangalore City in MVC Nos.2413 to 2418 of 2011 and the Court of Small Causes, Bangalore City vide judgment dated 01.01.2014 held that the accident occurred due to the rash and negligent act of the driver of the tempo



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traveler/ first respondent and fastened the liability on the insurer of the first respondent.

5.The learned counsel appearing for the appellant further submitted that MVC Nos.2413 to 2418 of 2011 were filed before the Court of Small Causes, Bangalore City since all the petitioners therein/ occupants of the tempo traveler are residents of Bangalore. The first respondent herein/ owner cum driver of the tempo traveler is also a resident of Bangalore and he was the first respondent in the above said claim petitions and though notice was served on him in the said petitions, he remained exparte before the Court of Small Causes, Bangalore City, however, with ulterior motive, the first respondent filed claim petition before the Motor Accidents Claims Tribunal (Special Sub Court), Krishnagiri and he also did not disclose the filing of MVC Nos.2413 to 2418 of 2011 by the occupants of the tempo traveler before the Motor Accidents Claims Tribunal (Special Sub Court), Krishnagiri. The learned counsel further submitted that there cannot be two contrary decisions with regard to one accident.

6.The learned counsel appearing for the respondents 4 to 6 submitted that the accident occurred in Chennai to Krishnagiri NH 46



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Road at Subhedar Medu Junction Road, which is within the jurisdiction of the Motor Accidents Claims Tribunal (Special Sub Court), Krishnagiri and hence the original claimant/ first respondent filed claim petition before the Motor Accidents Claims Tribunal (Special Sub Court), Krishnagiri and the Tribunal after considering all the factual aspects, awarded compensation which is just and reasonable and the same warrants no interference.

7.Heard the learned counsel appearing for the appellant as well as the learned counsel appearing for the respondents 4 to 6 and perused the materials available on record.

8.The accident and the manner in which the accident took place are not in dispute. Perusal of records reveal that the law enforcing agency registered case as against the first respondent. Admittedly, the first respondent is the owner cum driver of the tempo traveler and resident of Bangalore. The occupants of the tempo traveler filed MVC Nos.2413 to 2418 of 2011 before the Court of Small Causes, Bangalore City. Though notice was served on the first respondent in the said petitions, he remained exparte before the Court of Small Causes, Bangalore City.



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9.Further, the accident occurred during the year 2010 and the occupants of the tempo traveler driven by the first respondent filed claim petitions before the Court of Small Causes, Bangalore City in the year 2011, whereas, the first respondent has filed the claim petition during the year 2013 and the first respondent has not disclosed anything about the filing of MVC Nos.2413 to 2418 of 2011 on the file of the Court of Small Causes, Bangalore City, by the occupants of the tempo traveler, before the Motor Accidents Claims Tribunal (Special Sub Court), Krishnagiri and this itself shows that the first respondent did not approach the Tribunal with clean hands.

10.There cannot be two decisions in respect of one accident. In respect of the very same accident, the Court of Small Causes, Bangalore City in MVC Nos.2413 to 2418 of 2011 vide judgment dated 01.01.2014 held that the accident occurred due to the rash and negligent act of the driver of the tempo traveler/ first respondent and fastened the liability on the insurer of the first respondent. Hence, the decree and judgment dated 03.02.2013 made in M.C.O.P.No.3000 of 2013, by the Motor Accidents Claims Tribunal (Special Sub Court), Krishnagiri, contrary to the decision of the Court of Small Causes,



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Bangalore City, cannot be allowed to continue.

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11.In view of the above, the civil miscellaneous appeal is allowed. The judgment and decree dated 03.02.2013 made in M.C.O.P.No.3000 of 2013, by the Motor Accidents Claims Tribunal (Special Sub Court), Krishnagiri, is set aside. The appellant Insurance Company is permitted to withdraw the entire amount, if any, already deposited by them. No costs. Consequently, the connected miscellaneous petition is closed.

27.01.2025

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal
(Special Sub Court), Krishnagiri.



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M.DHANDAPANI,J.
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