



CMA. No.967 of 2020

WEB COPY **M.DHANDAPANI, J.**

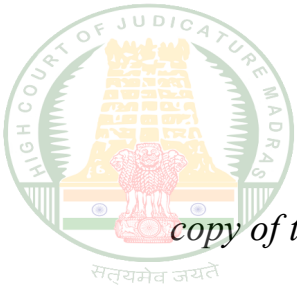
The matter is listed today under the caption “for being mentioned”.

2. The matter was disposed of vide order dated 08.01.2025. It is brought to the notice of this Court that in the appearance portion for the respondents appearance has been wrongly typed and the same may be changed as follows:

*"For Respondents: Mr.V.R.Anna Gandhi for R1
R 3 – NRN
RR2, 4 & 5 – No appearance"*

3. It is also seen that there are few grammatical errors in para-7 and the number of the last paragraph has been mentioned as 9 instead of 8, which also requires to be corrected. Further, Para 7 and 8, which also requires to be corrected. Accordingly, Para 7 and 8 shall stand replaced as under:

"7. On a perusal of the said award, it is seen that the issue that arises in the present case pertains to the same accident. The above judgment is squarely applicable to the present case. In view of the above, the appellant and the 4th respondent are directed to deposit each 30% of the award amount before the Tribunal along with interest at the rate of 7.5% from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of a



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copy of this judgment. The 5th respondent is directed to deposit 40% of the award amount before the Tribunal along with interest at the rate of 7.5% from the date of claim petition till the date of deposit from the date of receipt of a copy of this judgment. Upon receipt of such payment, the Tribunal shall deposit the same in the account of the claimant through RTGS, within a period of two weeks thereafter.

8. With the above modifications, the appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is also closed."

4. Except the above modification, remaining portion of the judgment dated 08.01.2025 shall stand unaltered.

09.04.2025

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Note: Registry is directed to issue a fresh order copy after making necessary corrections.

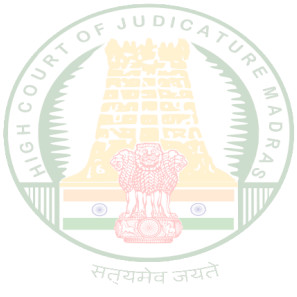


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CMA. No.967 of 2020

09.04.2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 08.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.967 of 2020
and CMP. No.6092 of 2020

National Insurance Company Ltd.,
Branch Office,
Krishnagiri Taluk and District.

.. Appellant

Vs.

1. Venkatesan
2. M/s.Dharmapuri District Cooperative Milk
Producers Union Limited,
Kanaga Mutlu Post,
Krishnagiri Taluk and District.

3. Subramaniam

4. Oriental Insurance Co. Ltd.,
Divisional Office,
Hosur, Krishnagiri Taluk and District.

5. The Managing Director,
Tamilnadu State Transport corporation Ltd.,
Regional Office, Dharmapuri.
(R5 impleaded vide Court order dated
05.11.2024 in CMP. No.27733/2023 in
CMA.No.967 of 2020 by this Court)

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 16.08.2017 made in



MCOP.No.1703 of 2014 on the file of the Motor Accidents Claims Tribunal,
Special Sub-ordinate Judge, Dharmapuri.

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For Appellant : Mrs.R.Sreevidhya

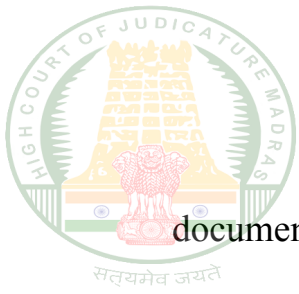
For Respondents : Mr. V.R.Anna Gandhi R1
RR1 to 4 NDW
R5- No appearance

J U D G M E N T

This appellant/Insurance company has come forward with the present appeal, challenging the judgment and decree dated 16.08.2017 made in MCOP.No.1703 of 2014 on the file of the Motor Accidents Claims Tribunal, Special Sub-ordinate Judge, Dharmapuri.

2. The Brief fact which are necessary for disposal of this appeal are as follows:

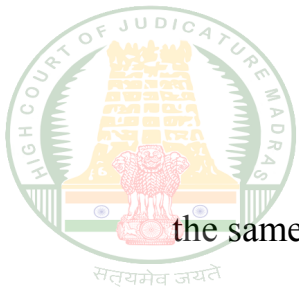
The claimant/first respondent has filed the said claim petition, claiming a sum of Rs.10,00,000/- as compensation for the injuries sustained by him in the accident that took place on 14.02.2013. Before the Tribunal, during trial, in order to prove the case, the claimant has examined himself as PW1 and marked Exs.P1 to P22, On the side of the insurance company, no witness was examined and no documents were marked. The Tribunal, considering the pleadings, oral and



documentary evidence, allowed the claim petition in part and held that the accident occurred due to rash and negligent driving by all the drivers of the vehicles involved in the accident. The Tribunal awarded a sum of Rs.3,64,565/- by directing the appellant herein to pay the compensation and thereafter, recover the same from the second respondent herein.

3. Aggrieved by the said award dated 16.08.2017, the appellant/insurance company has filed this appeal before this Court.

4. The learned counsel for the appellant/insurance company would submit that for the very same accident, the other injured persons filed a claim petition before the Motor Accidents Claims Tribunal, Special Sub-ordinate Judge, Dharmapuri and the Tribunal has also passed common judgment. As against the said award, the 4th respondent herein has filed appeal before this Court and the said appeals have already been settled by this Court in CMA. Nos.115 to 118 of 2017, dated 15.03.2018 wherein this Court has fixed 40% negligence as against the Transport Corporation, 30% negligence as against appellant herein and the remaining 30% negligence as against the 4th respondent/Oriental Insurance company Ltd., Therefore, the learned counsel prays that this Court may also pass



the same order to this case also.

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For better appreciation, the relevant paragraph of the order in CMA.

Nos.115 to 118 of 2017, dated 15.03.2018 is extracted hereunder:

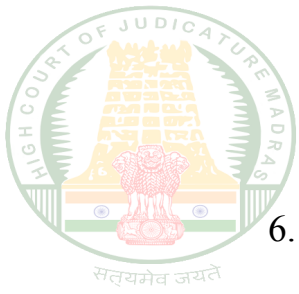
"9.From the materials on record, it is seen that FIR was lodged against the driver of the tanker lorry who died in the accident. The complaint was given by the Village Administrative Officer who was not an eye witness. P.W.7 is the only eye witness examined in all the claim petitions. He deposed that he traveled in the Transport Corporation bus belonging to the 1st respondent and according to him, the driver of the bus belonging to the 1st respondent drove the bus in a rash and negligent manner. At that time, the driver of the SRS private bus belonging to the 2nd respondent driven in a rash and negligent manner came behind the Transport Corporation bus and dashed against the back side of the Transport Corporation bus. In view of the said impact, the driver of the Transport Corporation bus lost control and dashed <http://www.judis.nic.in> 9 against the Aavin tanker lorry which was coming in opposite direction in a rash and negligent manner. Again the driver of the SRS private bus belonging to the 2nd respondent dashed against the Transport Corporation bus and the said bus capsized. P.W.7 deposed that the driver of the Aavin tanker lorry also drove the vehicle in a rash and negligent manner



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and dashed against the bus. The 3rd respondent or the 5th respondent have not examined the driver of the bus or any other eye witness to disprove the evidence of P.W.7. The driver of the Aavin tanker lorry died in the accident. R.W.1 is only an official from the Insurance Company and he is not an eye witness. The Tribunal considering the evidence of P.W.7 and contents in the claim petitions wherein it has been pleaded that the drivers of all the 3 vehicles drove the vehicle in a rash and negligent manner and all the vehicles involved in the accident are heavy vehicles, held that all the 3 drivers are responsible for the accident and fixed contributory negligence of 40% on the part of the 1st respondent driver, 30% on the part of the driver of the SRS private bus belonging to the 2nd respondent and 30% on the part of the driver of the Aavin tanker lorry belonging to the 4th respondent and directed the 1st respondent to pay 40% of the compensation awarded, the respondents 2 and 3 to jointly and severally pay 30% and the respondents 4 and 5 to jointly and severally pay 30% <http://www.judis.nic.in> 10 of the compensation granted by the Tribunal in all the claim petitions. There is no error in the said award warranting interference by this Court."

5. The learned counsel appearing for the respondents have also accepted the same.



6. Heard the learned counsel on either side and perused the award passed by the Tribunal.

7. On perusal of the said award, it is seen that the issue arises in the present case is also in the same accident. The above judgment is squarely applicable in the present case. In view of the above, the appellant and the 4th respondent are directed to deposit each 30% of the award amount before the Tribunal along with interest at the rate of 7.5% from the date of claim petition to till the date of deposit within a period of four weeks from the date of receipt of a copy of this order. The 5th respondent is directed to deposit 40% of the award amount before the Tribunal along with interest at the rate of 7.5% from the date of claim petition to till the date of deposit from the date of receipt of a copy of this order. Upon receipt of such payment, the Tribunal shall deposit the same to the account of the claimant through RTGS within a period of two weeks thereafter.

9. With the above modifications, the appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is also closed.



08.01.2025

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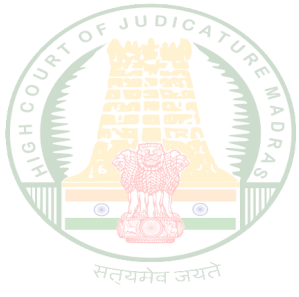
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Index : Yes

Speaking Order : Yes

To

The Motor Accidents Claims Tribunal,
Special Sub-ordinate Judge, Dharmapuri.



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M.DHANDAPANI,J.

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C.M.A.No.967 of 2020

08.01.2025