

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No. 168 of 2015

&

M.P. No. 1 of 2015

The Managing Director,
Tamilnadu State Transport Corporation Ltd.,
Thiruvannamalai Division,
Thiruvannamalai. ..Appellant/1st Respondent

Vs.

1. Senthamarai
2. Minor Shanmugasundram
3. Minor Muthamizh

(2nd and 3rd respondents minors are rep.
By their mother/1st respondent)

4. Niramani
5. Duraikannu
6. Kalimuthu
7. Divisional Manager,
The New India Assurance Company
Limited,
No. 91/106, Big Street, 1st Floor,
Thiruvannamalai.

..Respondents/Petitioner 1to5/
Respondent 2&3

Prayer: Civil Miscellaneous Appeal as against the judgment and
decree dated 16.07.2014 passed in M.C.O.P. No. 860 of 2013 by the
Motor Accidents Claims Tribunal (Special Judge), Thiruvannamalai.

For Appellant :: Mr.P. Paramasiva Doss

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the
Transport Corporation as against the award passed by the Tribunal
fastening the liability on them and directing them to pay a sum of
Rs.12,11,043/- for the death of one Srinivasan, aged about 41 years,
in the accident, which occurred on 01.06.2011, when the bus belonging

to the appellant Transport Corporation, in which the deceased was the Conductor, while trying to overtake a lorry, hit the said lorry, resulting in his death.

2. Heard Mr.P. Paramasivados, learned counsel for the appellant.

3. The learned counsel for the appellant confined his arguments with regard to the liability. According to him, when two vehicles are involved in an accident, composite negligence has to be fixed and at least 50% negligence should have been fixed on the driver of the lorry.

4. However, a close scrutiny of the award would show that the bus, which was going behind the lorry, tried to overtake it and in the process, hit on the right side of the lorry resulting in the death of the Conductor, who was seated on the left side of the bus. The manner, in which the accident occurred, does not convince this Court to come to the conclusion that the accident occurred because of the negligence of drivers of both vehicles. The very fact that the bus hit the lorry from behind would show that it was only due to the negligence of the driver of the bus belonging to the Transport Corporation. That apart, FIR was registered against the driver of the bus of the appellant Transport Corporation. Besides, P.W.2, who is an eye-witness, also spoke about the manner in which the accident took place. Hence, the finding of the Tribunal that the accident occurred because of the negligence of the driver of the appellant Transport Corporation bus is based on evidence and cannot be interfered with. The Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Connected M.P. is closed.

5. The appellant Transport Corporation is directed to deposit the entire award amount, with interest and costs, before the Tribunal, on or before 30th March, 2015 failing which the Chairman cum Managing Director, Financial Advisor and Chief Accountant Officer of the appellant Transport Corporation shall appear before this Court on 31st March, 2015.

6. Post on 31st March, 2015 for reporting compliance.

09.2.2015

This Civil Miscellaneous Appeal having been posted on this day of Monday, 6th day of April 2015 "for Reporting Compliance" in pursuance of the order of this Court dt.9.2.2015 and in the presence of the abovesaid advocates, this Court made the following order:

It is submitted by the learned counsel for the appellant Transport Corporation that a sum of Rs.14,43,286/- (Rupees Fourteen Lakhs Forty Three Thousand Two Hundred and Eighty Six) has been deposited towards compensation payable to the claimants and the judgment of this Court dated 09.02.2015 has been complied with.

2. In view of deposit of compensation amount, respondents 1, 4 and 5 are permitted to withdraw their respective shares, as per the apportionment of the Tribunal. The share of the minors shall be deposited in any one of the Nationalised Banks, in interest bearing Fixed Deposit, till they attain majority. The 1st respondent is permitted to withdraw interest accruing on such deposit once in three months.

3. Office is directed to send a copy of this order, directly to the claimants, free of cost.

4. Since the judgment of this Court has been complied with, no further orders are necessary.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Motor Accidents Claims Tribunal,
(Special Judge) Tiurvannamalai.

2. The Chairman cum Managing Director,
Financial Advisor and Chief Accountant Officer,
Tamil Nadu State Transport Corporation Ltd.,
Tiruvannamalai Division, Thiruvannamalai.

3.Senthamarai

4.Minor Shanmugasundaram

5.Minor Muthamizh

(minors rep. by mother Senthamarai)

6.Niramani

7.Duraikannu

(Sl.No.3 to 7 all are residing at
No.796,C1 Vannavil Nagar,
3rd Street,
Venkikol, Thiruvannamalai.

06.4.2015

AK(CO)

Eu 13.02.15

krd 29.5