

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.Nos.1764 to 1802 of 2015

The Managing Director
Tamil Nadu State Transport
Corporation (Villupuram) Limited
No.3/137, Salamedu, Vazhuthareddy
Villupuram 605 602 .. Appellant/Respondent in all the appeals

-Vs-

Selvi	..	Respondent in C.M.A.No.1764 of 2015
Mahalakshmi	..	Respondent in C.M.A.No.1765 of 2015
Alamelu Mangai	..	Respondent in C.M.A.No.1766 of 2015
Aramuthu	..	Respondent in C.M.A.No.1767 of 2015
Thangarasu	..	Respondent in C.M.A.No.1768 of 2015
Abirama Sundari	..	Respondent in C.M.A.No.1769 of 2015
Revathi	..	Respondent in C.M.A.No.1770 of 2015
Backiyaraj	..	Respondent in C.M.A.No.1771 of 2015
Mathiazhagan	..	Respondent in C.M.A.No.1772 of 2015
Settu	..	Respondent in C.M.A.No.1773 of 2015
Santhiya (minor) rep.by her father and next friend	..	
Mr.Ramachandran	..	Respondent in C.M.A.No.1774 of 2015
Kaliyan	..	Respondent in C.M.A.No.1775 of 2015
Jothy	..	Respondent in C.M.A.No.1776 of 2015
Punitha	..	Respondent in C.M.A.No.1777 of 2015
Vasantha	..	Respondent in C.M.A.No.1778 of 2015
Vijaya (minor) rep.by her father and next friend	..	
Mr.Govindhan	..	Respondent in C.M.A.No.1779 of 2015
Lakshmi	..	Respondent in C.M.A.No.1780 of 2015
Saroja	..	Respondent in C.M.A.No.1781 of 2015
Shivanandam	..	Respondent in C.M.A.No.1782 of 2015
Santha	..	Respondent in C.M.A.No.1783 of 2015
Sozhamma @ Divya (minor) rep.by her mother and next friend M.Sakunthala	..	Respondent in C.M.A.No.1784 of 2015
Ayyappan	..	Respondent in C.M.A.No.1785 of 2015
Murugesan	..	Respondent in C.M.A.No.1786 of 2015
Rajkannu	..	Respondent in C.M.A.No.1787 of 2015
Muthulakshmi	..	Respondent in C.M.A.No.1788 of 2015
Selvi	..	Respondent in C.M.A.No.1789 of 2015
Rajeswari	..	Respondent in C.M.A.No.1790 of 2015

Muthamizh Selvi	..	Respondent in C.M.A.No.1791 of 2015
Uma	..	Respondent in C.M.A.No.1792 of 2015
Azhagesan	..	Respondent in C.M.A.No.1793 of 2015
Angammal	..	Respondent in C.M.A.No.1794 of 2015
Sridhar	..	Respondent in C.M.A.No.1795 of 2015
Kathirvel	..	Respondent in C.M.A.No.1796 of 2015
Asothai	..	Respondent in C.M.A.No.1797 of 2015
Kalaiselvi	..	Respondent in C.M.A.No.1798 of 2015
Amsavalli	..	Respondent in C.M.A.No.1799 of 2015
Anjalai	..	Respondent in C.M.A.No.1800 of 2015
Dhanasekar	..	Respondent in C.M.A.No.1801 of 2015
Dhanya (minor) rep.by mother and next friend		
Mrs.Mahalakshmi	..	Respondent in C.M.A.No.1802 of 2015

Memorandum of Grounds of Civil Miscellaneous Appeals under Section 173 of the Motor Vehicles Act, 1988 against the common judgment and decree dated 28.3.2014 made in M.C.O.P.Nos.1313, 1314, 1315, 1316, 1317, 1336, 1337, 1365, 1366, 1367, 1368, 1369, 1370, 1371, 1372, 1373, 1374, 1375, 1542, 1600, 1601, 1677, 1678, 1679, 1680, 1681, 1919, 1921, 1922, 2204, 2205, 2212, 2213, 2257, 2260, 2378, 2420, 2423 & 2463 of 2012 on the file of the Motor Accidents Claims Tribunal, V Court of Small Causes, Chennai.

For Appellant in all appeals :: Mr.K.J.Sivakumar

COMMON JUDGMENT

Totally 39 appeals have been filed by the Managing Director of Tamil Nadu State Transport Corporation (Villupuram) Limited, Villupuram challenging the impugned common award of the Motor Accidents Claims Tribunal, V Court of Small Causes, Chennai dated 28.3.2014 made in M.C.O.P.Nos.1313, 1314, 1315, 1316, 1317, 1336, 1337, 1365, 1366, 1367, 1368, 1369, 1370, 1371, 1372, 1373, 1374, 1375, 1542, 1600, 1601, 1677, 1678, 1679, 1680, 1681, 1919, 1921, 1922, 2204, 2205, 2212, 2213, 2257, 2260, 2378, 2420, 2423 & 2463 of 2012 respectively.

2. Learned counsel for the appellant-Transport Corporation, assailing the impugned award, contended that the Tribunal has failed to see the negligence aspect of the tanker lorry bearing Registration No.TN-04-L-2898 which was coming in the opposite direction and hit against the bus belonging to the appellant-Transport Corporation bearing Registration No.TN-32-N-1365, thereby causing injuries to the 39 passengers, as a result failed to fix the negligence on the part of the tanker lorry driver. Adding further, he submitted that the Tribunal has also fixed a sum of Rs.20,000/- each towards loss of amenities and pain & suffering without considering the nature of injuries, which is on the higher side. Continuing his arguments, he

submitted that the Tribunal ought not to have taken the permanent disability of each of the respondent at 30% or 20% or 40% respectively, which is on the higher side.

3. But this Court is not able to see any merit in any of the contentions made by the learned counsel for the appellant-Transport Corporation. A perusal of the impugned award shows that on the ill-fated day i.e., on 8.12.2009 at about 14.45 hours when each of the respondent/claimant was travelling in the bus belonging to the appellant-Corporation bearing Registration No.TN-32-N-1365 from Villupuram to Trichy National Highway near Gedilam overbridge, Thirunavallur, the driver of the bus, in a rash and negligent manner, proceeding on the wrong side, hit the tanker lorry bearing Registration No.TN-04-L-2898 coming in the opposite direction, as a result of the collision, each of the respondent sustained grievous injuries. The Tribunal, based on the contents of Ex.P1-FIR and the evidence let in by the claimants, who were all the eyewitnesses, clearly held that the accident occurred only due to the negligence on the part of the driver of the bus belonging to the appellant-Transport Corporation and thus the Corporation is vicariously liable to compensate each of the respondent/claimant.

4. The Tribunal, while deciding the quantum of compensation to be paid to each of the respondent/claimant, following the ratio laid down by the Apex Court in the cases of Nizam Institute of Medical Sciences v. Prasanth S.Dhananka, (2009) 6 SCC 1; Aravind Kumar Mishra v. New India Insurance Company and another, (2010) 10 SCC 254 and Kavitha v. Deepak and others, AIR 2012 SC 2893, based on the evidence let in by each of the claimant from P.Ws.1 to 39 and the doctor-P.W.40 and the documents marked on their side from Exs.P1 to Exs.157 viz., copy of FIR, discharge summary, discharge slips, CT scan reports, X-ray reports, accident registers, OP chits, disability certificates respectively, has finally quantified the total amount of compensation to be paid to each of the respondent/claimant, since there was no contra evidence let in by the driver of the bus-R.W.1 and no document was also filed on the side of the Corporation. Since all the 39 injured passengers of the bus have filed the claim petitions seeking compensation for the injuries sustained by them in the accident and a memo was also filed before the Tribunal for a joint trial and that the Tribunal has also recorded common evidence in respect of the injuries sustained by each of the claimants on the basis of the aforementioned documents marked by them, it is suffice to consider the evidence of the respondent/claimant in C.M.A.No.1764 of 2015 and the findings recorded by the Tribunal, for arriving at the quantum of compensation payable to each of the claimants, since all the passengers had travelled in the same bus on the date of accident viz., on 8.12.2009, in this order.

5. It is seen that the respondent/claimant Mrs.Selvi, who has deposed as P.W.1, was aged about 40 years at the time of accident, which was not refuted by the insurance company, and that she was earning a sum of Rs.400/- per day as Chittal. However, the Tribunal, in the absence of any independent witness to prove the same, has fixed her monthly income at Rs.4,500/- on notional basis. This apart, Ex.P2-discharge summary issued by the Government Hospital, Villupuram also shows that the claimant sustained fracture of left medial condyle with left knee dislocation, wedge compression of C4 and C5 and therefore she was treated as inpatient on 8.12.2009 & 9.12.2009 and was referred to another hospital for further treatment. The Tribunal has also further held that from Ex.P3- discharge summary issued by the Pondicherry Government Hospital, it was evident that she was treated as inpatient from 9.12.2009 to 19.12.2009 and was taking treatment for concussion brain and other injuries. Further, the CT scan revealed frontal lobe SDH & cerebral edema and fracture of medial condyle with left knee dislocation as seen from Exs.P4 & P5 respectively, therefore, considering the treatment taken at Villupuram and Pondicherry Government Hospitals, the Tribunal has awarded a sum of Rs.2,500/- towards medical expenses. So far as the disability suffered by the claimant is concerned, though the doctor-P.W.40 assessed the disability at 40% partial permanent disability, the Tribunal, finding that the doctor has not taken CT scan and X-ray at the time of assessment and that only conservative treatment was given without any surgery, fixed the partial permanent disability at 30% citing that the claimant sustained head injury, fracture and dislocation. In this background, keeping the age and injuries sustained by the claimant, at the rate of Rs.2,000 per percentage, a sum of Rs.60,000/- was allowed under the head of partial permanent disability. Since the claimant In addition thereto, the Tribunal was also inclined to award compensation under the heads of loss of income for two months, transportation, extra nourishment, damage to clothes, medical expenses, attender charges, loss of amenities and pain & suffering. Finally the Tribunal arrived at the just compensation payable to the claimant in CMA No.1764 of 2015, as follows:-

(i) Loss of income for 2 months	-	Rs. 9,000/-
(ii) Transportation	-	Rs. 2,500/-
(iii) Extra nourishment	-	Rs. 2,500/-
(iv) Damage to clothes	-	Rs. 1,000/-
(v) Medical expenses	-	Rs. 2,500/-
(vi) Attender charges	-	Rs. 2,500/-
(vii) Pain & suffering	-	Rs. 20,000/-
(viii) Loss of amenities	-	Rs. 20,000/-
(ix) Disability at 30% @ Rs.2000 per percentage	-	Rs. 60,000/-

Total		Rs.1,20,000/-

6. In the aforesaid manner, the Tribunal has arrived at the compensation amounts in respect of the remaining 37 respondents/claimants, after considering the nature of injuries sustained and the period of treatment taken by each of them and assessing the respective percentage of disability based on the evidence and the documents filed in support of their claim, as follows:-

- (1) Mrs. Mahalakshmi, respondent in CMA 1765/15 -
Rs.1,20,000/-
- (2) Mrs. Alamelumangai, respondent in CMA 1766/15 -
Rs.1,00,000/-
- (3) Mr. Aramuthu, respondent in CMA 1767/15 -
Rs.1,20,000/-
- (4) Mr. Thangarasu, respondent in CMA 1768/15 -
Rs.1,20,000/-
- (5) Ms. Abirama Sundari, respondent in CMA 1769/15 -
Rs.1,00,000/-
- (6) Mrs. Revathi, respondent in CMA 1770/15 -
Rs.1,40,000/-
- (7) Mr. Backiyaraj, respondent in CMA 1771/15 -
Rs.1,20,000/-
- (8) Mr. Mathiazhagan, respondent in CMA 1772/15 -
Rs.1,20,000/-
- (9) Mr. Settu, respondent in CMA 1773/15 -
Rs.1,20,000/-
- (10) Ms. Santhiya, respondent in CMA 1774/15 -
Rs.1,11,000/-
- (11) Mr. Kaliyan, respondent in CMA 1775/15 -
Rs.1,40,000/-
- (12) Mrs. Jothy, respondent in CMA 1776/15 -
Rs.1,40,000/-
- (13) Mrs. Punitha, respondent in CMA 1777/15 -
Rs.1,00,000/-
- (14) Mrs. Vasantha, respondent in CMA 1778/15 -
Rs.1,40,000/-
- (15) Ms. Vijaya, respondent in CMA 1779/15 -
Rs.1,31,000/-
- (16) Mrs. Lakshmi, respondent in CMA 1780/15 -
Rs.1,31,000/-
- (17) Mrs. Saroja, respondent in CMA 1781/15 -
Rs.1,20,000/-
- (18) Mr. Shivanandam, respondent in CMA 1782/15 -
Rs.1,20,000/-
- (19) Mrs. Santha, respondent in CMA 1783/15 -
Rs.1,20,000/-
- (20) Ms. Sozhamma, respondent in CMA 1784/15 -
Rs.1,31,000/-
- (21) Mr. Ayyappan, respondent in CMA 1785/15 -
Rs.1,40,000/-

(22)Mr.Murugesan, respondent in CMA 1786/15	-
Rs.1,20,000/-	
(23)Mr.Rajkannu, respondent in CMA 1787/15	-
Rs.1,40,000/-	
(24)Mrs.Muthulakshmi, respondent in CMA 1788/15	-
Rs.1,40,000/-	
(25)Mrs.Selvi, respondent in CMA 1789/15	-
Rs.1,20,000/-	
(26)Mrs.Rajeswari, respondent in CMA 1790/15	-
Rs.1,40,000/-	
(27)Mrs.Muthamizh Selvi, respondent in CMA 1791/15	-
Rs.1,40,000/-	
(28)Ms.Uma, respondent in CMA 1792/15	-
Rs.1,40,000/-	
(29)Mr.Azhagesan, respondent in CMA 1793/15	-
Rs.1,40,000/-	
(30)Mrs.Angammal, respondent in CMA 1794/15	-
Rs.1,40,000/-	
(31)Mr.Sridhar, respondent in CMA 1795/15	-
Rs.1,20,000/-	
(32)Mr.Kathirvel, respondent in CMA 1796/15	-
Rs.1,20,000/-	
(33)Mrs.Asothai, respondent in CMA 1797/15	-
Rs.1,40,000/-	
(34)Mrs.Kalaiselvi, respondent in CMA 1798/15	-
Rs.1,00,000/-	
(35)Mrs.Amsavalli, respondent in CMA 1799/15	-
Rs.1,20,000/-	
(36)Mrs.Anjalai, respondent in CMA 1800/15	-
Rs.1,40,000/-	
(37)Mr.Dhanasekar, respondent in CMA 1801/15	-
Rs.1,40,000/-	

So far as the respondent/claimant in C.M.A.No.1802 of 2015 is concerned, since the minor girl aged about 5 years sustained only abrasion of 1 x 1 cm over right great toe, abrasion of 0.5 x 0.5 cm over nose and treated conservatively as out-patient on 8.12.2009, the Tribunal awarded a sum of Rs.25,000/- for transport to hospital, extra nourishment, damage to clothes, medical expenses, attender charges and pain & suffering. The Tribunal has further directed that the compensation amount payable to each of the claimant shall carry interest at the rate of 7.5% per annum from the date of filing of the respective claim petition till the date of deposit. So far as the minor claimants are concerned, the Tribunal has directed the respective amounts to be deposited in a nationalised bank till the minor claimants attain majority, permitting the respective natural guardian of the minors to withdraw the accrued interest once in three months directly from the bank.

7. In the light of the above and on consideration of the entire evidence, this Court is not inclined to interfere with the impugned common award of the Tribunal, as a just and reasonable compensation has been awarded to each of the respondents/claimants for the injuries sustained by them. Accordingly, finding no merit in any of the contentions made by the learned counsel for the appellant-Transport Corporation as to the liability, all these civil miscellaneous appeals are dismissed at the admission stage. As the appellant had deposited only the statutory amount of Rs.25,000/- each for filing the appeals, the appellant is directed to deposit the balance amount of compensation including accrued interest in each case as ordered by the Tribunal, within a period of six weeks from the date of receipt of a copy of this order. It is made clear that so far as the minor claimants are concerned, the respective amount shall be deposited in a nationalised bank till the minor attains majority and that the natural guardian of the minor is entitled to withdraw the interest accrued once in three months directly from the bank. So far as the remaining claimants are concerned, they are entitled to withdraw the entire amount along with the accrued interest by moving appropriate applications before the Tribunal. Consequently, M.P.Nos.1 of 2015 are also dismissed. No costs.

ss

-s/d-

Assistant Registrar(J)

True Copy

Sub-Assistant Registrar

To

The Motor Accidents Claims Tribunal
V Court of Small Causes
Chennai

+ 3 ccs to Mr.K.J.Sivakumar, Advocate SR-6404

rsy(co)
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C.M.A.Nos.1764 to 1802 of 2015

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