

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

C.M.A.No.1059 of 2016

and

CMP.No.7995 of 2016

The Managing Director,
Tamil Nadu State Transport
Corporation (Salem) Limited,
No.12, Ramakrishna Road,
Salem - 7 ... Appellant/R1

Vs.

1. K.Parvathy
2. Pavithra (Minor)
3. Captain Raj (Minor)
Minors R-2 & R-3 are rep. by
next friend & mother Parvathy
4. Kolanthai ...R1 to R4/Petitioners
5. Manager,
Namakkal Transport Carriers (P) Ltd.,
Having Office at No.39, (Old No.18)
Lingi Chetty Street, First Floor, Chennai.
6. The Branch Manager,
ICICI Lombard General Insurance Company Ltd.,
Having Office at First Floor,
Chottapai Centre, No.140,
Nungambakkam High Road,
Chennai - 34. ... Respondents 5&6/R2&3

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 04.04.2013 made in M.C.O.P No.564 of 2011 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Krishnagiri.

For Appellant : Mr. D.Venkatachalam
For Respondent : Mrs.Sreevidhya for R-6

J U D G M E N T

The Transport Corporation has come up with this appeal challenging the liability and quantum of compensation awarded by the Tribunal.

2. On 23.08.2009, while the appellant Transport Corporation bus bearing Registration No.TN 29 N 2022, was plying from Salem to Hosur, on the Krishnagiri Hosur National Highways,

near Sundagiri M.M. Petrol Bunk, one Trailer Lorry belonging to the 5th respondent and insured with the 6th respondent proceeding in the front of the bus, suddenly turned to the right and so the bus dashed behind the Trailor Lorry, with full speed, one Kamaraj died on the spot, who is the Conductor of the bus. It is stated by the claimants that due to the impact, the deceased, the driver of the appellant Corporation bus and 7 passengers sustained fatal injuries and died on the spot and several other passengers of the bus sustained grievous injuries. The Claim Petition has been filed by his wife, minor children and father, before the Tribunal seeking a sum of Rs.30,00,000/- as compensation. After analyzing the available oral and documentary evidences, the Tribunal awarded a sum of Rs.11,99,442/- as compensation, under the following heads:

Sl. No	Heads	Amount
1	Loss of Income	Rs.8,99,648.00
2	Loss of Consortium to wife	Rs. 10,000.00
3	Loss of love and affection to children	Rs. 10,000.00
4	Funeral Expenses	Rs. 10,000.00
5	Loss of future income	Rs.2,69,894.00
	Total	Rs. 11,99,442.00

3. Learned counsel appearing for the appellant/Transport Corporation, mainly contended that the Tribunal ought to have considered the evidence of RW1, the motor vehicle inspector, deposing that during inspection he found that the Trailer was 32 meters long while the permissible length is only 18 meters and that there was no symptoms of red flag or danger lights in the trailer, at the time of accident. Hence, the Tribunal ought to have fixed the entire negligence on the driver of the Trailer. The Tribunal has erred in holding negligence on the part of the driver of the appellant Transport Corporation bus, merely based on the F.I.R filed against him. He further contended that the Tribunal ought not to have considered the evidence of PW1, who is the wife of the deceased and not an eye witness to the accident. Aggrieved with the quantum of compensation and the 50% liability, this appeal has been filed.

4. As per the depositions of the witnesses, the evidences and documents produced before the Tribunal, it has been found that the drivers of both the bus and the trailer, are responsible for the accident and hence the Tribunal fixed 50% liability on the appellant Transport Corporation bus and 50% liability on the 6th respondent insurer of the Transport Company. Considering the age of the deceased, young age of his wife, minor children and his father and his services as a Conductor in the appellant Transport Corporation, the Tribunal has granted a reasonable compensation.

5. This Court considered the submissions made by the learned counsel for the appellant and perused the materials available on record. Since the respondents will not be prejudiced with the result of this Appeal, the main case itself is disposed of at the stage of admission itself, without serving notice to them.

6. Perusal of the records clearly show that after investigation, the Tribunal has come to the conclusion that the negligence is on the part of the driver of the Transport Corporation bus and the driver of the trailer. It is found from the records that the driver of the trailer has not followed the traffic rules properly, however, the driver of the appellant Transport Corporation bus has also driven the bus with an hectic speed, due to which he was unable to stop the bus to avoid the accident. Further, the Tribunal has rightly followed the principles laid down by the Apex Court and this Court, in various judgments and has granted the compensation under the headings 'Loss of Salary' and 'Loss of future income'. This Court is not inclined to interfere with the compensation granted under the other heads, which are fair and correct. At this juncture, this Court would like to point out that the deceased is an employee of the appellant Transport Corporation and has died, while he was on duty.

7. In view of the above, this Court is of the considered opinion that there is no necessity to interfere with the order passed by the Tribunal. Accordingly, the Civil Miscellaneous Appeal is dismissed confirming the quantum of compensation and the rate of interest at 7.5% per annum awarded by the Tribunal. The appellant Transport Corporation and the respondent Insurance Company are directed to deposit the entire award amount together with accrued interest, less the amount already deposited, to the credit of M.C.O.P.No.564 of 2011 on the file of the Motor Accidents Claims Tribunal, Principal District Judge, Krishnagiri, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the Tribunal shall pay the apportioned share of compensation to the major claimants in the form of a crossed Account Payee Cheque, favouring only the claimants and it should not be issued in favour of any other person/Company. It is needless to mention that the proportionate share of the minor respondents/claimants shall be deposited in any one of the Nationalised Banks initially under reinvestment scheme for a period of three years, renewable thereafter periodically and the interest accrued thereon shall be withdrawn by their natural guardian, once in three months, till the minors attain majority. In the case of minor claimants, the proportionate share of the award amount shall be paid to them in the form of a crossed Account Payee Cheque, once they attain majority. No costs. Consequently, the M.P. is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To :

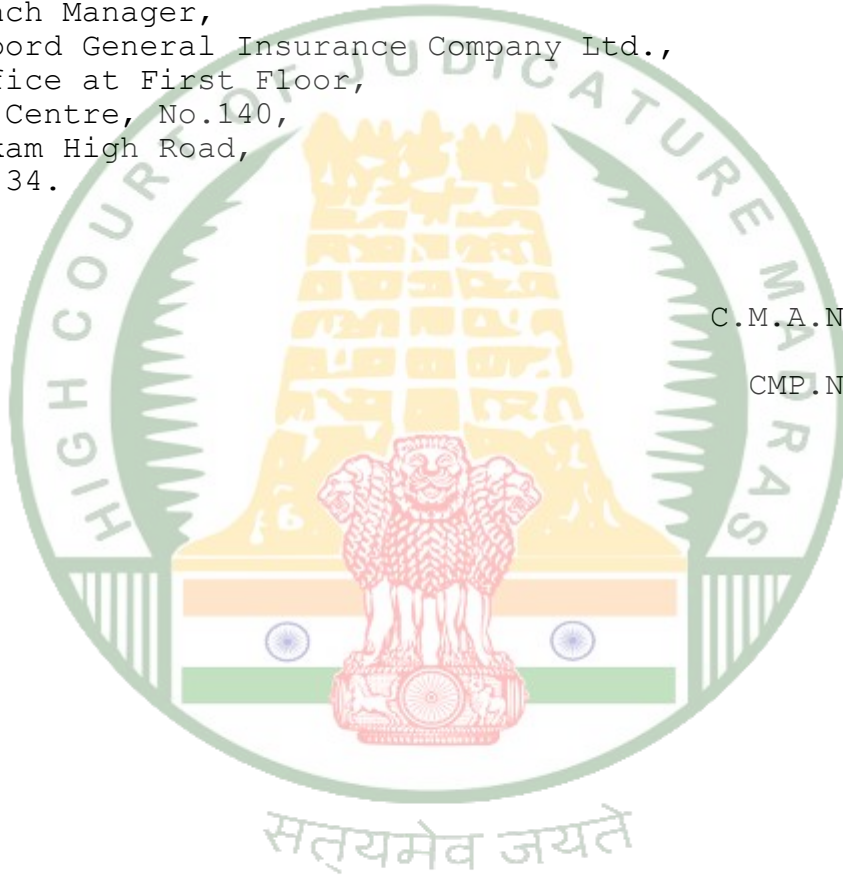
1.The Principal District Judge
Motor Accidents Claims Tribunal,
Krishnagiri.

2.The Managing Director,
Tamilnadu State Transport Corporation (Salem Ltd.)
12 Ramakrishna Road,
Salem.

3.The Branch Manager,
ICICI Lombard General Insurance Company Ltd.,
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Chennai - 34.

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