

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.09.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A.Nos.1966 & 2064 of 2016

The Managing Director  
Tamil Nadu State Transport  
Corporation  
Vellore

...Appellant in both the appeals/  
3rd Respondent in both petitions

-vs-

Sangeetha  
W/o Renu

...1<sup>st</sup> respondent in CMA No.1966 of  
2016/Petitioner in MCOP.3650/13

Sathish  
S/o Govindan

... 1<sup>st</sup> respondent in CMA No.2064  
of 2016/Petitioner in MCOP.3527/13

Amarjothi Logistic Private Limited  
Dundahera Village  
Gurgaon  
Haryana 122 001

... 2<sup>nd</sup> respondent in both the appeals/  
1st Respondent in both petition

The Manager  
ICICI Lombard General Insurance  
Company Limited  
ICICI Lombard House  
414, Veer Savarkar Marg  
Near Sidhi Vinayak Temple  
Prabhadevi, Mumbai  
Maharashtra 400 025

... 3<sup>rd</sup> respondent in both the appeals/  
2nd Respondent in both petitions

Memorandum of Grounds of Civil Miscellaneous Appeals under  
Section 173 of the Motor Vehicles Act, 1988 against the common  
award and decree dated 6.11.2015 made in M.C.O.P.Nos.3650 & 3527  
of 2013 on the file of the Motor Accidents Claims Tribunal  
(Special Subordinate Judge), Krishnagiri.

For Appellant

:: Mr.S.Sairaman

#### JUDGMENT

The Managing Director of Tamil Nadu State Transport Corporation Limited, Vellore has brought these appeals challenging the correctness of the impugned common award passed by the Motor Accident Claims Tribunal (Special Subordinate Judge), Krishnagiri in M.C.O.P.Nos.3650 & 3527 of 2013 dated 6.11.2015, awarding a sum of Rs.4,08,869/- & Rs.3,95,260/- respectively along with interest at the rate of 7.5% per annum from the date of petition till the date of deposit to the contesting first respondent/claimant in each of the appeals, out of which 50% thereof has been directed to be paid by the appellant-Transport Corporation to each of the claimants for the multiple injuries sustained by them, on the ground that the accident is proved to have occurred due to the contributory negligence of the drivers of both the vehicles belonging to the Transport Corporation and the second respondent, thereby fastening 50% liability on the appellant-Corporation and another 50% liability on the third respondent, being the insurer of the vehicle belonging to the second respondent.

2. Learned counsel for the appellant-Transport Corporation, assailing the impugned common award, has submitted that the Tribunal has wrongly fixed the 50% liability in each case on the appellant without considering the evidence adduced by the appellant proving that the accident had never occurred due to the rash and negligent driving by the driver of the bus belonging to the appellant-Corporation.

3. This Court is not able to accept the said contention of the learned counsel for the appellant-Corporation. A close reading of the evidence adduced by the injured claimants would clearly show that when they were travelling in the bus bearing Registration No.TN 23 N 2273 belonging to the appellant-Transport Corporation from Chennai towards Vellore on 16.10.2013, the driver of the bus had carelessly driven the bus without even taking care of the fact that a container lorry bearing Registration No.HR 55 Q 6538 belonging to the second respondent and insured with the third respondent was proceeding in front of the bus. As such, when the bus was crossing Sunguvarchatram in Chennai to Bangalore National Highways, as the driver of the container lorry proceeding in front of the bus suddenly applied the brake and turned right, the driver of the bus belonging to the Corporation could not control the vehicle and dashed behind the container lorry. Had the driver of the bus belonging to the appellant Corporation taken sufficient care in maintaining the distance, the accident on the particular day

would not have occurred. Therefore, after finding fault with the drivers of both the vehicles belonging to the appellant Corporation and the second respondent, the Tribunal, in my considered opinion, has arrived at a rightful conclusion by apportioning the liability in each case, namely, 50% against the appellant Corporation and 50% against the third respondent, being the insurer of the vehicle belonging to the second respondent. Secondly, the injured have sustained multiple injuries as per the discharge summaries marked before the Tribunal. The Tribunal has also considered the fact that almost 12/10 injuries have been sustained by the injured in the accident and they have taken treatment by spending a substantial amount. Hence, on the facts and circumstances involved in the cases on hand, this Court does not find any infirmity or error with the impugned award of the Tribunal apportioning 50% liability on the appellant Transport Corporation. Accordingly, the civil miscellaneous appeals fail and they are dismissed. Consequently, C.M.P.Nos.14241 & 15087 of 2016 are also dismissed.

4. The appellant-Corporation is directed to deposit the entire 50% liability along with interest in each case as per the common award to the credit of the M.C.O.P.Nos.3650 & 3527 of 2013 on the file of the Motor Accidents Claims Tribunal (Special Subordinate Judge), Krishnagiri within a period of four weeks from the date of receipt of a copy of this order and on such deposit, it is for the first respondent/claimant in each case to withdraw the amount with accrued interest by moving appropriate applications before the Tribunal.

-s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Special Subordinate Judge  
Motor Accident Claims Tribunal  
Krishnagiri

+2 ccs to Mr.S.Sairaman Advocate sr 53327 & 52988  
C.M.A.Nos.1966 & 2064 of 2016

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