



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2016

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**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM**

C.M.A(MD) No.930 of 2016

and

CMP(MD)No.8430 of 2016

The Managing Director,  
Tamil Nadu State Transport Corporation Ltd.,  
Maruthupandiar Nagar, Karaikudi. : Appellant/3<sup>rd</sup> respondent

Vs

1.Boosai Duraichi  
2.Sangaiah Thevar  
3.Rajeswari  
4.Pasumpon  
5.Minor Poonkodi : R1 to R5/Petitioners  
[Minor rep by her father 2<sup>nd</sup> respondent  
herein]  
6.S.Jaikumar  
7.The Divisional Manager,  
The Oriental Insurance Company Ltd.,  
16-Saratha Shopping Complex,  
North Veli Street, Simmakal,  
Madurai-1. : R6 and R7/R2 and R8

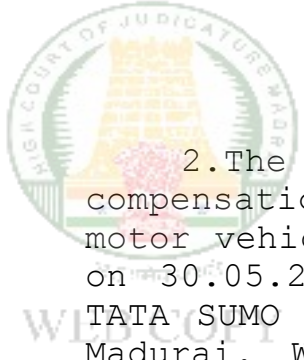
[Appeal on quantum. Claim of 4 and 5  
dismissed by MACT. Hence, notice to  
4 to 7 given up]

Prayer : Civil Miscellaneous Appeal is filed under Section 173  
of the Motor Vehicles Act, 1988 against the judgment and decree  
passed in MCOP No.2749 of 2004, dated 22.07.2010 on the file of  
the Motor Accidents Claims Tribunal (Additional District  
Judge/Fast Track Court No.1), Madurai.

For Appellant : Mr.M.Prakash

JUDGMENT

This appeal is directed against the award of the Motor  
Accidents Claims Tribunal (Additional District Judge/Fast Track  
Court No.1), Madurai, passed in MCOP No.2749 of 2004, dated  
22.07.2010.



2.The respondent 1 to 5 herein filed the petition claiming compensation of Rs.15,00,000/- for the death of Periyadurai in the motor vehicle accident on 30.05.2004. According to the claimants, on 30.05.2004, the deceased was travelling as a passenger in a TATA SUMO Car bearing registration No.TN-58-A-6262 from Ramnad to Madurai. While so, the bus bearing registration No.TN63-N-0660 belonging to the appellant transport corporation came from the opposite direction, dashed against the TATA SUMO. Due to the accident, five persons, who were travelling in the TATA SUMO died on the spot, including Periyadurai. A case in Crime No.193 of 2004 was registered against the driver of the transport corporation bus under sections 279, 337, 338 and 304(A) IPC.

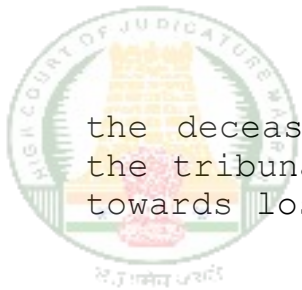
3.The appellant filed a counter opposing the claim by contending that the driver of the TATA SUMO without noticing the bus had attempted to over take the lorry and hit against the bus. Since the driver of the TATA SUMO violated the Motor Vehicles Act and Rules by permitting to travel more passengers, they are not liable to pay any compensation.

4.Before the Tribunal, on the side of the claimants, two witnesses were examined as PW1 and PW2 and Exs.P1 to P8 were marked. On the side of the Transport Corporation, one Elangovan was examined as RW1 and produced one document as Ex.R1. Upon consideration of the oral and documentary evidence, the Tribunal held that the driver of the bus was responsible for the accident and awarded compensation of Rs.7,66,376/- to the claimants 1 to 3 together with interest @ 7.5% p.a. Challenging the said award, the present appeal has been filed.

5.Heard Mr.M.Prakash, the learned counsel appearing for the appellant Transport Corporation and perused the materials available on record.

6.The claimants examined one Udayakumar as PW2, who was also a passenger in the TATA SUMO at the time of the accident. He has categorically deposed before the tribunal that only due to the rash and negligent driving of the bus, the accident had taken place. Ex.P1 is the first information report. The tribunal, while rejecting the evidence of RW1 came to the conclusion that the driver of the bus was responsible for the accident, based on the evidence of PW2 and Ex.P1.

7.The 2<sup>nd</sup> claimant who is the father of the deceased has given evidence as PW1 stating that the deceased was working as police constable and he was earning Rs.5,079/- per month. At the time of his death he was 26 years old. Ex.P4 is the salary certificate. The tribunal, after deducting 1/3<sup>rd</sup> from the salary for his personal expenses, has calculated the annual earnings of



the deceased as Rs.40,632/-. By applying the multiplier of '18', the tribunal held that the claimants are entitled to Rs.7,31,376/- towards loss of dependency.

8. In this case, the first claimant is the wife of the deceased and she has become widow at the age of 20 years, the claimants 2 and 3 are parents and the claimants 4 and 5 are brother and sister of the deceased. Considering the above facts, the tribunal has awarded Rs.10,000/- each to the claimants 1 to 3 for the loss of love and affection; Rs.2,000/- for transportation and Rs.3,000/- for funeral expenses. In total, the tribunal has awarded Rs.7,66,376/- to the claimants 1 to 3 and in respect of the claimants 4 and 5, the claimant petition was rejected. The award of the tribunal is fair and reasonable.

9. In fine, the appeal is dismissed and the award of the Tribunal is confirmed. The appellant Transport Corporation is directed to deposit the entire amount together with the interest and costs within a period of eight weeks from the date of receipt of a copy of this order, if not deposited already. On such deposit, the claimants 1 to 3 are permitted to withdraw the entire amount without filing any formal application before the Tribunal as apportioned by the tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To,  
The Motor Accident Claims Tribunal,  
IVth Additional District Judge, Fast Track Court No.I,  
Madurai.

+One cc to Mr.M.Prakash, Advocate, SR.No.50679

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RL/3C/3P/MR/24.3.2017

Judgment made in