

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2017

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

C.M.A.Nos.2519 to 2522 of 2017

and

C.M.P.Nos.13753 to 13756 of 2017

C.M.A.No.2519 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
(VPM DIV I) Ltd., Villupuram. .. Appellant

(Cause title accepted vide order
of Court dt.13.06.2005 and made
in CMP.Nos.7369 to 7372 of 2005)

/Vs/

1. Bakkiam
2. Shanthi
3. New India Insurance Co.Ltd.,
Coimbatore - 641 001. .. Respondents

C.M.A.No.2520 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
(VPM DIV I) Ltd., Villupuram. .. Appellant

(Cause title accepted vide order
of Court dt.13.06.2005 and made
in CMP.Nos.7369 to 7372 of 2005)

/Vs/

1. Subbiah
2. Shanthi
3. New India Insurance Co.Ltd.,
Coimbatore - 641 001. .. Respondents

C.M.A.No.2521 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
(VPM DIV I) Ltd., Villupuram. .. Appellant

(Cause title accepted vide order
of Court dt.13.06.2005 and made
in CMP.Nos.7369 to 7372 of 2005)

/Vs/

1. Ramuthai
2. Murugan
3. Sangili
4. Shanthi
5. New India Insurance Co.Ltd.,
Coimbatore - 641 001. .. Respondents

C.M.A.No.2522 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation,
(VPM DIV I) Ltd., Villupuram. .. Appellant

(Cause title accepted vide order
of Court dt.13.06.2005 and made
in CMP.Nos.7369 to 7372 of 2005)

/Vs/

1. Nambu Pitchai
2. Shanthi
3. New India Insurance Co.Ltd.,
Coimbatore - 641 001. .. Respondents

Civil Miscellaneous Appeals have been filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree dated 20.11.2001 made in M.C.O.P.No.1313 of 1994, 1315 of 1994, 1317 of 1994 and 1319 of 1994 on the file of the Motor Accidents Claims Tribunal, (Principal District Judge), Villupuram.

For Appellants : Mr.R.Balakrishnan
in all CMAs

JUDGMENT

In respect of the accident dated 22.05.1994 involving the appellant corporation bus and the lorry of the second respondent in CMA.Nos.2519, 2520 & 2522 of 2017/fourth respondent in CMA No.2521 of 2017, there are four claim petitions in MCOP Nos.1313, 1315, 1317 & 1319 /94, filed by the passengers of the bus, who who met with an accident and sustained injuries.

2. In all the original claim petitions, the transport corporation is the third respondent and the first respondent is the owner of the lorry and second respondent is the insurer of the lorry.

3. The tribunal directed that the owner and the insurer of the lorry shall pay 50% of the compensation and the remaining 50% of the compensation shall be paid by the appellant transport corporation.

4. It is the claim of the appellant transport corporation that 50% of the negligence fixed on the part of the transport corporation is not legally sustainable. The contention is based on Ex.P1, the first information report, which has been filed against the driver of the lorry and not against the driver of the bus.

5. In order to appreciate the contention raised, it is necessary to go through the reasonings adduced by the claims tribunal for arriving at the conclusion that the appellant as well as the insurance company, both are liable to equal extent.

5.1. The tribunal has given the following three reasons for coming to the conclusion that both of them are equally responsible:

i) All the claimants in all claim petitions have stated that both the vehicles collided with each other

ii) The tribunal has relied upon the evidence i.e. Ex.P1 the rough sketch marked, which revealed that both the vehicles have collided against each other on the western side of the road.

iii). The tribunal has also taken note of the fact that there was no evidence at all adduced on the side of the appellant as well as the insurance company.

6. Considering the totality of the circumstances, the finding of the claims tribunal that both the vehicles are equally responsible for the accident is fair and reasonable and the appellant transport corporation, who was in possession of best evidence, having declined to give evidence, it is not open to them to now contend that they are not responsible for the accident.

7. The quantum is also under challenge.

7.1. The reasonableness of the quantum of compensation can be better appreciated if a tabulation is made.

<i>Sl. No.</i>	<i>MCOP</i>	<i>Claimants</i>	<i>Details of award</i>	<i>total compensation</i>
1	1313 of 1994	Bakkiam	Injuries sustained by the petitioner Rs.3,000/- Extra nourishment Rs.2,500/- conveyance expenses Rs.2,500/- loss of income Rs.5,000/- ----- Rs.13,000/-	
2.	1315 of 1994	Subbaiya	Injuries sustained by the petitioner Rs.5,000/- Extra nourishment Rs.2,500/- conveyance expenses Rs.2,500/- loss of income Rs.10,000/- ----- Rs.20,000/-	
3.	1317 of 1994	1.Raji (died) 2.Ramuthai 3.Murugan 4.Sangili	Medicalexpenses Rs.15,000/- Extra nourishment Rs. 5,000/- conveyance expenses Rs.3,000/- ----- Rs.23,000/-	
4.	1319 of 1994	Nambu-Pitchai	Injuries sustained by the petitioner Rs.5,000/- Extra nourishment Rs.2,500/- conveyance expenses Rs.2,500/- loss of income Rs.10,000/- ----- Rs.20,000/-	

8. This award has been passed in the year 2001 and at this distant point of time, it cannot be contended that the award is excessive and there is increase in cost of living and reduction in value of money. All the appeals have no merits and the same are dismissed confirming the award of the tribunal. No costs. Consequently, connected miscellaneous petitions are closed.

9. The Insurance company, who is the insurer of the vehicle and the owner of the vehicle are directed to deposit the 50% of the award amount and the appellant transport corporation is directed to deposit the balance 50% of the award amount, along with interest and costs as determined by the tribunal, in all cases, less the amount already deposited, if any, before the Tribunal, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the award amount, as per the proportion fixed by the tribunal, directly to the bank account of the respective claimants in each of the claim petitions through RTGS within a period of two weeks thereafter.

Index : Yes/No
Internet : Yes/No
sms/kv

26.07.2017

To

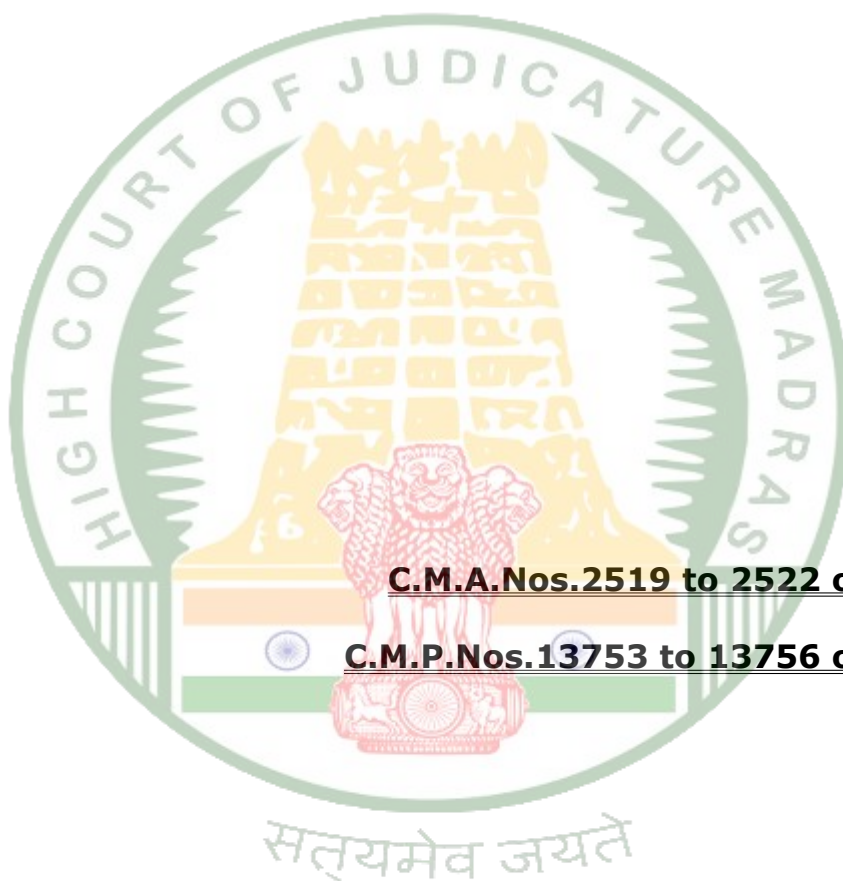
1. The Motor Accidents Claims Tribunal,
(Principal District Judge), Villupuram.
2. The Section Officer, VR Section,
High Court, Madras.



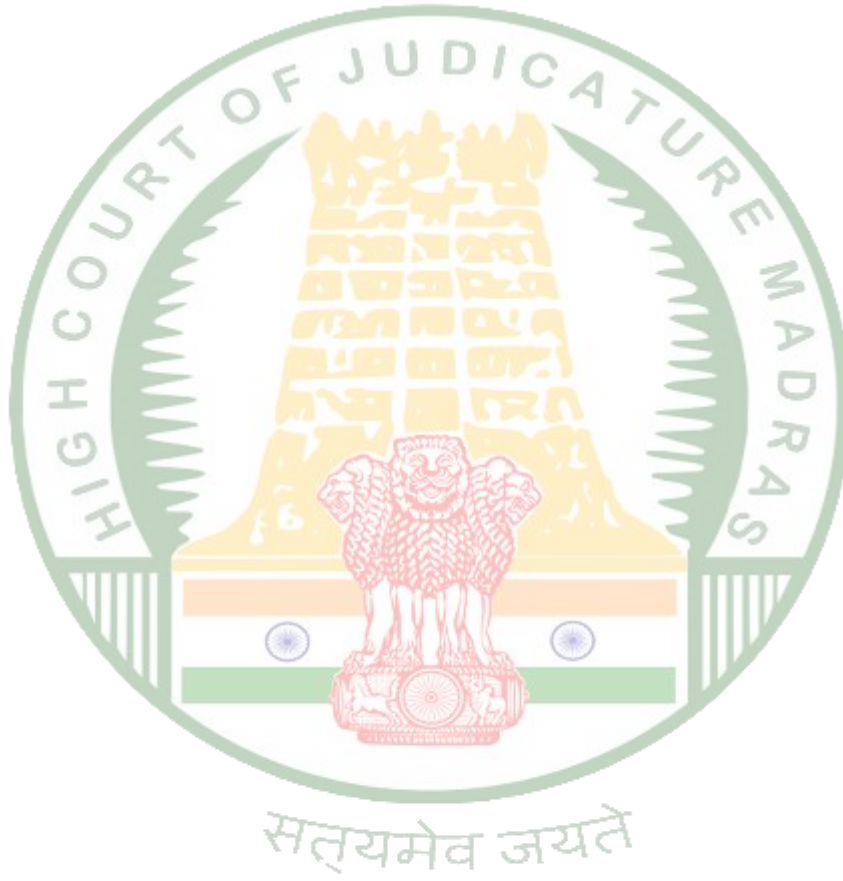
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S.VIMALA,J.

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