



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 25.10.2017
CORAM**

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

WEB COPY

**C.M.A(MD)No.1316 of 2006
and
M.P(MD)No.2 of 2006**

The Divisional Manager,
National Insurance Company Limited,
Divisional Office,
K.R.T Building,
33, Promenade Road,
Trichy - 1.

... Appellant/2nd Respondent

vs.

1.S.Thomas (died)

... 1st Respondent/Claimant

2.C.Radhakrishnan

... 2nd Respondent/1st Respondent

3. The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Collector Office Road,
Trichy.

... 3rd Respondent/3rd Respondent

4.Jonson Prabhar

5.Hellan Rose

6.Exiba Mercy Piyula

... Respondents 4 to 6/Lrs of the
deceased first respondent

(RR 4 to 6 were brought on record as
legal representatives of the deceased
first respondent, vide order,
dated 25.10.2017 in CMP(MD)
Nos.12381 & 12382 of 2016)

PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988, against the Judgment and Decree made in
M.C.O.P.No.3165 of 2002, dated 05.10.2005 on the file of the Motor
Accident Claims Tribunal (First Additional District Court (PCR)),
Thiruchirappalli.

For Appellant : Mr.N.Murugesan

For R - 2 : Ex-parte

For R - 3 : Mr.P.Thilak Kumar

For RR 4 to 6 : Mr.A.Suresh Selva Kumar

**JUDGMENT**

This Civil Miscellaneous Appeal has been filed by the Appellant/National Insurance Company against the Judgment and Decree made in M.C.O.P.No.3165 of 2002, dated 05.10.2005 on the file of the Motor Accident Claims Tribunal (First Additional District Court (PCR)), Tiruchirappalli.

2.The first respondent/claimant filed a claim petition, claiming an amount of Rs.4,00,000/- towards compensation for the injuries sustained by him in a road accident.

3.It is a case of injury which took place on 06.08.2002 at about 04.30 p.m., when the first respondent/claimant and his son Johnson were travelling in the mini-bus bearing Registration No.TN-69-4077 and got down from the mini-bus at Mannachanallur Edumalai Pirivu road, they attempted to board into the bus bearing Registration No.TN-45-N-1230, which was standing nearby the mini-bus. The first respondent/claimant's son got into the bus and when the first respondent/claimant was attempting to board into the bus, at that time, the driver of the bus moved the same in a rash and negligent manner, without caring about the first respondent/claimant, due to which, the first respondent/claimant was caught in between the two buses and he was crushed. Due to the said impact, the first respondent/claimant sustained multiple grievous injuries all over the body. Immediately, he was taken to the Government Hospital, Srirangam and then he was referred to the Government Hospital, Trichy and thereafter, he was referred to Tanjore Medical College Hospital and he was treated as an in-patient from 06.08.2002 to 14.08.2002 and thereafter, he took treatment privately. At the time of accident, the first respondent/claimant was aged about 64 years and he was a retired Teacher and was a pensioner and he was also earning a sum of Rs.3,000/- per month by way of tuition. Hence, the first respondent/claimant filed a claim petition in M.C.O.P.No.3165 of 2002, dated 05.10.2005 on the file of the Motor Accident Claims Tribunal (First Additional District Court (PCR)), Thiruchirappalli, seeking compensation of Rs.4,00,000/-.

4.The appellant/National Insurance Company filed counter affidavit and denied the age, occupation and income of the first respondent/claimant. The mini-bus was parked on the left side of Mannachanallur Kadaiveethi near Thumalai Pirivu Road and at that time, the third respondent's bus was stopped adjacent to the mini-bus and it was not stopped at the bus stop, but it was stopped on the middle of the road. Due to the carelessness and negligent act of the driver of the third respondent, the first respondent/claimant sustained injuries and the third respondent/Tamil Nadu State Transport Corporation alone is responsible for the accident and hence prayed for dismissal of the claim petition.



5.The second respondent/first respondent remained ex-parte before the Tribunal.

6.Before the Tribunal, on the side of the claimant, two witnesses viz., P.W.1 and P.W.2 were examined and seven documents viz., Exs.A.1 to A.7 were marked and on the side of the respondents, two witnesses viz., R.W.1 and R.W.2 were examined and no document was marked to prove their contentions.

7.The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the learned counsel appearing on either side and also appreciating the evidence on record awarded a sum of Rs.1,10,000/- as compensation.

6.Against which, the appellant/National Insurance Company has filed the present appeal.

8.Heard the learned counsel appearing on both sides and perused the materials available on record.

9.The learned counsel appearing for the appellant/National Insurance Company submitted that the accident had occurred due to the rash and negligent act of drivers of both the vehicles, but the Tribunal has erroneously fixed the liability as against the driver of the mini-bus alone and the Tribunal has erred in awarding a huge and disproportionate award without following the principles laid down in the Motor Vehicles Act.

10.The learned counsel for the respondents 4 to 6/claimants would submit that based on the available oral and documentary evidences, the Tribunal has rightly come to the conclusion and arrived at correct compensation under various heads and hence, it does not require any interference at the hands of this Court.

11.From the perusal of the records, it is seen that the first respondent/claimant had sustained multiple grievous injuries all over the body including the fracture of 3 to 7 ribs on left and 4 to 10 ribs on right and as per Ex.A.5-medical bills and Ex.A.6-transport receipts, the Tribunal has awarded a sum of Rs.50,000/- towards medical expenses and transport charges, which in the considered opinion of this Court, is reasonable. Further, it is seen that the first respondent/claimant was not able to do the work, as he did earlier and the movement of the left shoulder was reduced by 50 degree, the Tribunal has assessed the disability at 56%, as per Ex.A.7-disability certificate issued by the Doctor and the Tribunal has awarded a sum of Rs.50,000/- towards permanent disability, which in the considered opinion of this Court is also reasonable and considering the nature of injuries sustained by the first respondent/claimant, the Tribunal has awarded a sum of Rs.10,000/- towards pain and sufferings. In total, the Tribunal has awarded a sum of Rs.1,10,000/- as compensation to the first



respondent/claimant, which in the considered opinion of this Court, is reasonable and the same is confirmed.

12. In view of the above, this Court is of the considered opinion that there is no error in the finding of the Tribunal and the Tribunal has awarded just and reasonable compensation. Hence, there is no infirmity or irregularity in the award passed by the Tribunal. Therefore, this Civil Miscellaneous Appeal deserves to be dismissed.

13. In the result, this Civil Miscellaneous Appeal is dismissed and the Judgment and Decree made in M.C.O.P.No.3165 of 2002, dated 05.10.2005 on the file of the Motor Accident Claims Tribunal (First Additional District Court (PCR)), Thiruchirappalli, is hereby confirmed. The appellant/National Insurance Company is directed to deposit the entire award amount with accrued interests and costs, within a period of eight weeks from the date of receipt of a copy of this order, if not already deposited and on such deposit being made, the respondents 4 to 6, who are the legal representatives of the deceased first respondent/claimant, are permitted to withdraw their respective shares from and out of the award amount along with accrued interest and costs, to which the first respondent/claimant is entitled to get, without filing any formal petition before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The First Additional District Court (PCR)
Motor Accident Claims Tribunal
Thiruchirappalli.

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

PS

VB/SV/MMS/SAR1/08/01/2018/4P/3C

**C.M.A (MD) No.1316 of 2006
and**

**M.P (MD) No.2 of 2006
25.10.2017**