



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.11.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.A. (MD) Nos.488 & 489 of 2015

and

MP (MD) Nos.3 & 3 of 2015

and

Cros.Obj (MD) No.29 of 2015

Tamil Nadu State Transport Corporation,
No.27, Railway Station Road,
periyamilaguparai, Trichy-1,
Rep.by its Managing Director.

... Appellant in C.M.A. (MD) Nos.488 &
489 of 2015

... 1st Respondent in Cros.obj (MD) No.
29 of 2015

Vs.

1.Ramesh @ Ramesh Kumar

...1st respondent in CMA (MD) No.
488 of 2015

2.Kannan

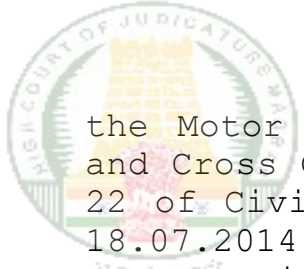
...1st respondent in CMA (MD) No.
489 of 2015 & Cross
Appellant in Cros.obj (MD) No.
29 of 2015

3.M/s.Sew Infrastructure Ltd,
6-3-871, Shehalata 1st Floor,
Greenlands Road, Begumpet,
Ameerpet, Hderabad-500 016.

4.Bajaj Alliance General Insurance
Company Ltd,
108, T.P.K.Road,
Khadi Bhavan 2nd Floor,
Madurai - 625 001,
Through its Branch Manager.

...2nd & 3rd respondents in
C.M.A. (MD) Nos.488 &
489 of 2015 &
Cros.Obj (MD) No.29 of 2015

Prayer: Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicles Act, 1988 against the judgment and degree dated 18.07.2014 made in M.C.O.P Nos.675 & 682 of 2012 on the file of



the Motor Accidents Claims Tribunal, Special Sub Court, Dindigul and Cross Objection (MD)No.29 of 2015 is filed under Order 41 Rule 22 of Civil Procedure Code against the judgment and decree dated 18.07.2014 made in M.C.O.P Nos.682 of 2012 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Dindigul.

WEB COPY

For Appellant in
C.M.A. (MD)Nos.488 & 489 of 2015 : Mr.D.Sivaraman

For petitioner in
Cros.Obj(MD)No.29 of 2016 : Mr.V.Thirumal

For R1 in
C.M.A. (MD)Nos.488 & 489 of 2015 : Mr.V.Thirumal

For R1 Cros.Obj(MD)No.29 of 2016 : Mr.D.Sivaraman

For R2 in all CMAs & Cros.Obj : No appearance

For R3 in all CMAs & Cros.Obj : Mr.J.S.Murali

COMMON JUDGMENT

Heard the learned counsel on either side.

2.The appellant transport corporation has filed two appeals questioning the awards dated 18.07.2014 made in M.C.O.P Nos.675 & 682 of 2012 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Dindigul on the ground of negligence as well as quantum.

3.When the lorry insured by the third respondent insurance company was parked on the road, the bus belonging to the appellant corporation had dashed against the parked lorry from behind. In the process, the passengers sitting in the bus suffered injuries. They applied for compensation. The Tribunal awarded a sum of Rs.1,38,000/- with interest in MCOP.No.675 of 2012 and a sum of Rs.3,75,000/- was awarded in MCOP.No.682 of 2012 with interest. The claimant in MCOP.No.682 of 2012 has filed Cros.Obj(MD)No.29 of 2015 seeking enhancement of compensation.

4.The learned counsel appearing for the appellant transport corporation would contend that in the accident, the lorry had capsized and death had occurred. When a claim petition was filed before the VIII Additional District Judge at Mahabubnagar in MVOP.No.569 of 2012, negligence was equally apportioned between the two vehicles. The learned counsel for the appellant would therefore contend that in this case also liability must be



5.I am not able to agree with the said contention for two reasons. The impugned awards in this case were passed on 18.07.2014. Negligence was fixed on the part of the bus driver in the impugned awards. On the other hand, the award passed by the Mahabubnagar Tribunal was passed only on 18.05.2016. It is later in point of time. Therefore, I am of the view that the Mahabubnagar Tribunal ought to have followed the finding rendered by the Dindigul Tribunal.

6.That apart from the manner of accident, it can be seen that it is only the bus driver who was at fault. The lorry was parked in the left side of the road. The bus belonging to the appellant corporation had come from behind and dashed against the parked lorry. The lorry had capsized as a result. This showed the rash and negligent driving on the part of the bus driver and the negligence was rightly fixed on the bus driver by the Tribunal.

7.I see no reason to interfere with the impugned awards. As regards the quantum, the award amount made in MCOP.No.675 of 2012 cannot be said to be excessive. It does not call for any interference. It stands confirmed.

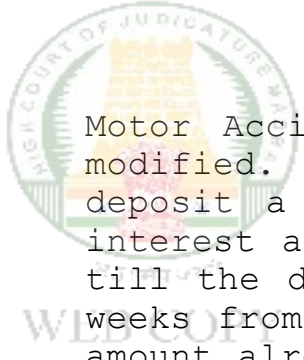
8.As regards MCOP.No.682 of 2012, a sum of Rs.3,75,000/- has been awarded. The claimant Kannan has filed Cross Objection. He would contend that for future medical expenses, no damages was awarded. In all fairness, he would contend that the Doctor had quantified the expenditure at Rs.20,000/- for operation charges. There will be pain and sufferings. Therefore, a sum of Rs.20,000/- will have to be awarded under that head also. Therefore, a sum of Rs.40,000/- is granted to the claimant in MCOP.No.682 of 2012 over and above what has already been awarded to him.

C.M.A. (MD) No.488 of 2015:

9.CMA (MD) No.488 of 2015 is dismissed and the award dated 18.07.2014 made in M.C.O.P Nos.675 of 2012 on the file of the Motor Accidents Claims Tribunal, Special Sub Court, Dindigul is confirmed. The appellant transport corporation is directed to deposit the entire compensation as awarded by the Tribunal with interest at the rate of 7.5% per annum from the date of petition till the date of realization and costs, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited if any. On such deposit, the claimant is permitted to withdraw the compensation, less the amount already withdrawn by him, if any.

C.M.A. (MD) No.489 of 2015 and Cross Obj. (MD) No.29 of 2015:

10.C.M.A. (MD) No.489 of 2015 stands dismissed and Cross Objection (MD) No.29 of 2015 is partly allowed. The award dated 18.07.2014 made in M.C.O.P Nos.682 of 2012 on the file of the



Motor Accidents Claims Tribunal, Special Sub Court, Dindigul is modified. The appellant transport corporation is directed to deposit a sum of Rs.3,75,000/- as awarded by the Tribunal with interest at the rate of 7.5% per annum from the date of petition till the date of realization and costs, within a period of eight weeks from the date of receipt of a copy of this order, less the amount already deposited if any. Further, the enhanced amount of Rs.40,000/- will be paid by the appellant transport corporation to the said claimant without any interest, if it is paid within twelve weeks from the date of receipt of a copy of this order. If there is any delay, the amount shall carry interest at the rate of 7.5% therefrom. On such deposit, the claimant is permitted to withdraw the entire compensation, less the amount already withdrawn by him, if any.

No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

SKM

To

1.The Special Subordinate Judge,
Motor Accidents Claims Tribunal,
Special Sub Court, Dindigul.

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

+2 cc to Mr.D.Sivaraman, Advocate, Sr.Nos.86095,86096.
+3 cc to Mr.J.S.Murali, Advocate., Sr.Nos.86379 to 86381
+2 cc to Mr.V.Thirumal, Advocate Sr.Nos.86049, 86050

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**C.M.A. (MD) Nos.488 & 489 of 2015
and**

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and**

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08.11.2017**