



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2017

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**C.M.A(MD)No.961 of 2014
and C.M.A(MD)No.262 of 2015**

In C.M.A(MD)No.961 of 2014:

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam. ... Appellant/Respondent

Vs.

- 1.Revathy
- 2.Silambarasan
- 3.Kuralarasan
- 4.Balamani
- 5.Maheswari
- 6.Anitha
- 7.Minor. Anusuya
- 8.Minor. Abirami
- 9.Minor. Asha
- 10.Minor. Kamatchi
- 11.Minor. Manikandan
- 12.Minor. Ajith Kumar
- (The respondents 7 to 12 are minors
represented by their mother the 4th
respondent Balamani)
- 13.Mangaiyarkarasi
- 14.Nallaiyyan

... Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgement and decree made in M.C.O.P.No.718 of 2012, dated 23.04.2014, on the file of the Motor Accidents Claims Tribunal/Special District Court, Thanjavur.

For Appellant	: Mr.P.Prabhakaran
For R1 to R4	: Mr.G.Karnan

In C.M.A(MD)No.262 of 2015:

- 1.Revathi
- 2.Silambarasan
- 3.Kuralarasan
- 4.Balamani
- 5.Maheswari



6. Anitha
7. Minor. Anusuya
8. Minor. Abirami
9. Minor. Asha
10. Minor. Kamakshi
11. Minor. Manikandan
12. Minor. Ajith Kumar
13. Mangaiyarkarasi
14. Nallaiyan

... Appellants/Claimants

(7 to 12 minor appellants are represented by their mother and Guardian the 4th appellant Balamani)

Vs.

Tamil Nadu State Transport Corporation,
Kumbakonam,
represented by its Managing Director. ... Respondent/Respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173(1) of the Motor Vehicles Act, 1988, against the judgement and decreetal order made in M.C.O.P.No.718 of 2012, dated 23.04.2014, by the Motor Accidents Claims Tribunal (Special District Court), Thanjavur.

For Appellants : Mr.G.Karnan

For Respondent : Mr.P.Prabhakaran

C O M M O N J U D G M E N T

The Civil Miscellaneous Appeal in C.M.A(MD) No.961 of 2014 has been filed by the Transport Corporation against the award made in M.C.O.P.No.718 of 2012, dated 23.04.2014, on the file of the Motor Accidents Claims Tribunal/Special District Court, Thanjavur.

The Civil Miscellaneous Appeal in C.M.A(MD) No.262 of 2015 has been filed by the claimants against the award made in M.C.O.P.No.718 of 2012, dated 23.04.2014, on the file of the Motor Accidents Claims Tribunal/Special District Court, Thanjavur.

2.It is a case of fatal accident, which took place on 24.04.2012 at 6.00 a.m., near Punalkulam Bus stop when the deceased Marimuthu was standing, the driver of a bus belongs to Transport Corporation bearing Registration No.TN-49-N-1786 drove the vehicle in a rash and negligent manner and dashed against the deceased to which he died.

<https://hcservices.courts.gov.in/hcservices>
3. The claimants filed applications in M.C.O.P.No. 718 of 2012 on the file of the Motor Accidents Claims Tribunal/Special District Court, Thanjavur., seeking compensation.



4. Before the Tribunal, the claimants examined five witnesses as P.Ws.1 to 5 and marked two documents as Ex.P.1 to Ex.P.2. On the side of the Transport Corporation, they did not let in any oral and documentary evidence.

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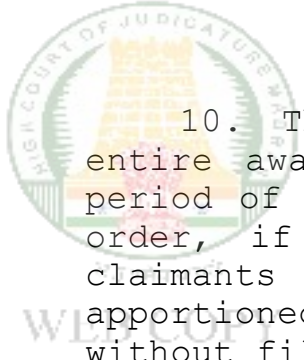
5. The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the driver of Transport Corporation bus and therefore directed the Transport Corporation to pay a sum of Rs.7,74,000/-.

6. In the appeal filed by the Insurance Company it is argued that the Tribunal has failed to fix the entire negligence on the deceased, who cross the road in order to board the bus without noticing the moving vehicles. On the side of the Insurance Company, while questioning the quantum of compensation, it is submitted that fixation of monthly income at Rs.6000/- is high and a total compensation of Rs.7,74,000/- is high and the same should be reduced.

7. With regard to negligence, the Tribunal has elaborately discussed in paragraph Nos.6 to 8, wherein it is stated that the evidence of P.W.2 corroborates the contents of the First Information report and further, on the side of the Transport Corporation neither oral nor documentary evidence was produced to disprove the same and therefore, the Tribunal has rightly stated that the accident occurred due to rash and negligent driving of the Transport Corporation bus.

8. As far as the claimants' appeal is concerned, it is pointed out by the learned counsel for the claimants that while calculating the income of the deceased, the Tribunal has taken multiplier '13' as per the age mentioned in the Postmortem Certificate, but as per Ex.B.5 the School Certificate, the age of the deceased is 43 years and therefore, multiplier '14' should be adopted.

9. This Court is inclined to accept the said submission of the learned counsel for the claimants. If monthly salary of the deceased is fixed at Rs.6,000 and after deducting 1/3rd towards personal expenses, the monthly income would be Rs.4,000/- and if multiplier '14' is adopted, the income of the deceased would be Rs.6,72,000 instead of Rs.6,24,000/-. In all other heads the amounts awarded by the Tribunal is confirmed. Rs.1,40,000/- towards loss of love and affection and Rs.10,000/- towards funeral expenses is added with the modified amount towards loss of income. total compensation would be Rs.8,22,000/-. This Court enhances the compensation from Rs.7,74,000/- to Rs.8,22,000/-.



10. The Transport Corporation 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. On making such deposit, the claimants are at liberty to withdraw their respective shares as apportioned by the Tribunal along with accrued interest and costs, without filing a formal application seeking permission.

11. As far as the appeal filed by the Insurance Company in C.M.A.(MD) No.961 of 2014 is concerned, finding no merit, the same is dismissed. No costs. Consequently, connected miscellaneous petition is dismissed.

12. The appeal filed by the claimants in C.M.A.NO.262 of 2015 is partly allowed. No costs.

Sd/-

Assistant Registrar(CS-I)

/True copy/

Sub Assistant Registrar

To,

The Motor Accidents Claims Tribunal,
Special District Court, Thanjavur.

Copy to:

The Record Keeper,
VR section,
Madurai Bench of Madras High Court,
Madurai.

+1 cc to Mr.G.Karnan , Advocate in SR.No. 67466

+1 cc to Mr.P.Prabhakaran , Advocate in SR.No. 67440

CM

AE/SV MMS/SAR3/12.09.2017/4P/5C

**C.M.A(MD)No.961 of 2014
and
C.M.A(MD)No.262 of 2015
25.07.2017**