

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.10.2018

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THE HONOURABLE MRS. JUSTICE S.RAMATHILAGAM

C.M.A.No. 1844 of 2005

and

C.M.P. No.10190 of 2005

Tamil Nadu State Transport
Corporation, Ltd.,
rep. by its Managing Director
Villupuram Division - 1
Villupuram.

.... Appellant / 1st Respondent

Vs

Muthaiah (Deceased)

1. Shanmugi

2. Rajasekar

3. Hemalatha

4. K.Kuppusamy

5. Oriental Insurance Co. Ltd.,
179, Eswaran Koil Street,
Pondicherry.

.... Respondents/Petitioners 1 to 3
and Respondents 2 & 3

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act of 1988 against the award and decreetal order dated 29.11.2004 and made in M.c.O.P.No.564/2000 on the file of Motor Accident Claims Tribunal (II Additional Sub Court) Villupuram.

For Appellant : Mr.S.V.Vasanth Kumar

For Respondents : Mr.M.R.Thangavel for RR1 to R3

JUDGMENT

This Civil Miscellaneous Appeal has been preferred against the award and decreetal order, dated 29.11.2004 made in M.C.O.P.No.564/2000 on the file of Motor Accident Claims Tribunal (II Additional Sub Court) Villupuram.

2. The brief facts leading to file the claim application is as follows :-

On 14.05.2000 at 07.35 a.m., the claimant was proceeding in a Tourist Taxi (Ambassador Car) bearing Registration No.TAF 100, from Villupuram to Chennai, which was driven by one Venkatesan. While the said Car was nearing Acharapakkam, the bus bearing Registration No.TN 32 N 1251 belonging to appellant transport corporation, came from Chennai to Tiruvannamalai, driven by its driver in a rash and negligent manner dashed against the said car. In the impact, the car was smashed and the bus capsized. Due to the accident, the inmates in both the vehicles sustained injuries including the claimant. Immediately, the claimant was admitted in the Government Hospital, Maduranthagam and later he was admitted as inpatient in Apollo Speciality Hospital, Chennai from 14.05.2000 to 24.05.2000. For the treatment of the claimant, his family members have spent huge money as medical expenditure. Therefore, the claimant has filed the claim petition claiming a total compensation of Rs.3,00,000/-. During the pendency of the claim petition, inspite of treatment given, after 15 months from the date of accident, the claimant died. Therefore, the legal heirs of the deceased claimant prosecuted the claim petition before the Tribunal claiming compensation of Rs.3,00,000/-.

3. On consideration of materials and records placed before the Tribunal, a sum of Rs. 1,25,398/- was awarded as compensation and it was directed to be paid by the appellant and 5th respondent / Oriental insurance company at the rate of 50% each and the breakup details are as under :-

	Rs.
For injuries	: 20,000/-
Pain and sufferings	: 15,000/-
Nutrition	: 10,000/-
Medical and other expenses	: 80,398/-

	1,25,398/-

4. The main contention of the learned counsel for the appellant is that the Tribunal has erroneously fixed 50% negligence on them without taking note of the fact that the 5th respondent/Oriental Insurance Company is solely responsible for the accident. Further the amount awarded under the heads, pain and suffering, extra nourishment, medical expenses and for injuries are onerous.

5. Heard both sides and perused the available records.

6. On scrutiny of records, it is observed that due to rash and negligent driving on the part of both drivers of the vehicle i.e., car and transport corporation bus, the accident occurred. Due to the collision, passengers in both vehicles sustained injuries. On the side of the deceased Muthiah Exs.P1 to P9 were marked. It is the evidence of RW1, driver of the transport corporation bus that when he was proceeding to Chennai to Trivannamalai, the car, which came in the opposite direction and at that time, the driver of the said car was apparently slept and he had driven the vehicle in a disorderly manner, without noticing the bus coming in the opposite direction, hence, he applied the brake and inspite of the same, the said car hit against the wheel of the bus. The Tribunal on consideration of the said deposition and also other document filed in support of the claim petition has given a finding that the accident had occurred only due to the rash and negligent driving on the part of both the drivers and hence, fixed the liability at 50% each of the insurers of the both vehicles. It was also discussed that if the driver of the bus was very much alert, he could have averted the accident. Since, the findings arrived by the Tribunal is based on the evidence and documents, this Court feels that the quantum awarded under various heads are also proper and reasonable and does not require any interference.

7. In the result, the order passed by the Tribunal in M.C.O.P. No.564 of 2000 is confirmed. Accordingly, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

8. The appellant /Transport Corporation is directed to deposit the 50% of the award amount with accrued interest and costs as ordered by the Tribunal, less the amount, if any, already deposited, to the credit of MCOP No.564 of 2000 on the file of the Motor Accident Claims Tribunal, Villupuram, 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 directly to the bank account of the claimants, through RTGS, within a period of two weeks thereafter, as per the apportionment ordered by the Tribunal. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Motor Accidents Claims Tribunal,
II Additional Sub Court,
Villupuram.
2. The Section Officer,
Vernacular Section,
Madras High Court.

+1 cc to Mr.S.V.Vasantha Kumar, Advocate, S.R.No.68508

+1 cc to Mr.M.R.Thangavel, Advocate, S.R.No.68651

C.M.A.No. 1844 of 2005

PA(CO)
SSM(11/04/2019).



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