



For Respondents 8 & 9 : R8 & R9 given up as unnecessary in CMA)

J U D G M E N T

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This Civil Miscellaneous Appeal has been filed against the Judgment and Decree dated 08.02.2002 made in M.C.O.P.No.160 of 1996 on the file of the Motor Accident Claims Tribunal, Chidambaram.

2. The facts of the case are as follows :

On 19.08.1995 at about 20.30 hours., when the deceased A.Ramanathan was traveling in a Ambassador car bearing Registration No.TN 09 2239 belonged to the 2nd respondent which was driven by the 1st respondent, ahead of the said Ambassador car, the C.R.P.F Bus No.DL.I.P./1396 belonged to the 5th respondent came which was driven by the 4th respondent. Ahead of the C.R.P.F. Bus and M.G.R Transport Corporation bus, T.C.B.3626 belonging to the 5th respondent came which was driven by the 6th respondent. The 6th respondent gave a signal for the 4th respondent to overtake his bus and while the 4th respondent was overtaking the M.G.R Transport Corporation Bus, the 6th respondent after giving signal for over taking brought the bus to the right side of the Road and as a result of which the bus driven by the 4th respondent hit the bus driven by the 6th respondent. At that time, the 1st respondent who was driving the Ambassador car hit the rear portion of C.R.P.F bus. As a result, the deceased had sustained head injury and he expired on 14.09.1995 inspite of the treatment given to him.

4. The 3rd respondent/New India Assurance Company has filed a counter statement stating that the accident was occurred solely due to the reckless driving and misconduct on the part of the respondents 4 and 6 who are responsible for the negligent driving of the said vehicles. There was no fault on the part of the 1st respondent Ambassador car because the said vehicle was driven by its driver very carefully. The other aspects regarding the claim made by the claimants were denied.

5. The Tribunal, after analyzing the evidence and documents regarding the involvement of the three vehicles and the liability on the driver of those three vehicles, has given a finding that there is no negligence on the part of the driver of the MGR Transport Corporation and the accident was occurred only due to the Mini Bus belonging to the CRPF and the driver of the Ambassador car. Hence, the appellant/respondent is also made liable equally against the driver of the CRP bus. Further, the Tribunal has also awarded a sum of Rs.7,80,000/- as compensation under various heads. But, in the order of the Tribunal, it has been wrongly mentioned as Rs.7,85,000/-.



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For Loss of Income	:	Rs.7,20,000.00
For Loss of Love and Affection for 1 st claimant	:	Rs. 20,000.00
For Loss of Love and Affection for 2 nd and 3 rd claimants (Rs.20,000/- each)	:	Rs. 40,000.00

Total		Rs. 7,80,000.00

Aggrieved against the liability, the 3rd respondent/Insurance Company of the Ambassador car has preferred this appeal.

5. In the grounds of appeal, it has been stated that the Tribunal has grossly erred in awarding a high sum as compensation against the principles. Further, the fixation of the income at Rs.6000/- per month and by applying multiplier at 15, the loss of income determined by the Tribunal as Rs.7,20,000/- is too high. The adoption of Rs.48,000/- as dependancy is also argued as main reason. Hence, on the whole, the sum awarded by the Tribunal as Rs.7,80,000/- is excessive. The negligence fixed at 50% is also not proper since the accident was due to the negligence of the respondent/driver of the C.R.P.F Mini Bus.

6. On perusal of the case records and the judgment of the Tribunal, it is observed that three vehicles were involved in the alleged incident and based on the evidence placed by the claimants and the respondent/driver and the documents relating to the FIR, rough sketch and the reports regarding the Motor Vehicle Inspector, charge sheet, the Tribunal has given a finding that the accident was occurred only due to rash and negligent act on the part of the driver of the Ambassador car and the driver of the C.R.P.F Mini Bus and fixed the liability on the appellant. In the evidence placed before the Tribunal it has been clearly spoken with regard to the negligence caused by the said two vehicles. The Tribunal has elaborately discussed based on the evidence and also the damages caused on the three vehicles involved in the said accident by perusing the MVI report. It has been observed that the entire front portion of the said vehicle was damaged. Ex.P22 Motor Vehicle Inspector report revealed the fact. The said damage was possibly only due to rash and negligent driving on the part of the driver of the C.R.P.F Bus. It is also observed that the MGR Transport Corporation Bus was particular and it is a van hit at the back of the said Transport Corporation Bus. Hence, all these aspects were properly perused and the Tribunal has observed the same and fixed the liability on the driver of the Ambassador car and the van which is quite proper and fixing the liability at 50% by



perusing the evidence and documents is proper and hence, the award by the Tribunal and the finding of the Tribunal does not require any interference.

7. Accordingly, this Civil Miscellaneous Appeal is dismissed. No cost. The Appellant Insurance Company is directed to deposit the entire Award amount along with interest as awarded by tribunal, if not already deposited, within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the respondents 1 to 3 are directed to withdraw their respective shares on making appropriate application. Consequently, the connected miscellaneous petition is closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Subordinate Judge
Motor Accident Claims Tribunal
Chidambaram.

2. The Section Officer,
V.R. Section,
High Court,
Madras.

+1 CC to Mr.M.B.Gopalan, Advocate sr 71359.

C.M.A. No.2016 of 2005
and
C.M.P.No.10723 of 2005

KJI (CO)
SP(06/12/2018)