

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2019

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.119 and 120 of 2007 and
C.M.P.No.12454 of 2017,
C.M.A.Nos.3474 and 3475 of 2006 and
M.P.Nos.1 and 1 of 2006

and

M.P.No.1 of 2010 in C.M.A.No.3475 of 2006

1.Mariammal
2.Vasanthi (minor)
3.Mariappan (minor)
4.Muthammal
5.M.Chinnava Naicker
(Minors appellants 2 and 3
rep.by mother and next friend
Mariammal) ... Appellants in CMA 119/2007 and
respondents in CMA 3475/2006

R.Lakshmanan ... Appellant in CMA 120/2007 and
respondent in CMA 3474/2006

Vs.

Veeran Alagumuthukone Transport
now called as
Tamil Nadu State Transport Corporation Limited
Kumbakonam (Division-4)
Pudukottai-622 001. ... Respondent in CMA 119 and
120 of 2007 and appellant in
CMA 3474 and 3475/2006

C.M.A.Nos.119 of 2007 and 3475 of 2006 filed under
Section 173 of the Motor Vehicles Act against the judgment
and decree dated 28.12.2004 made in MACTOP No.3362 of 2000
on the file of the Motor Accidents Claims Tribunal
(Additional District cum Sessions Judge, Fast Track Court
No.1) at Chennai.

C.M.A.Nos.120 of 2007 and 3474 of 2006 filed under
Section 173 of the Motor Vehicles Act against the judgment
and decree dated 28.12.2004 made in MACTOP No.2962 of 2000
on the file of the Motor Accidents Claims Tribunal
(Additional District cum Sessions Judge, Fast Track Court
No.1) at Chennai.

For appellants in CMA 119/2007 & : Mr.A.Shanmugaraj
respondents in CMA 3475/2006

For appellant in CMA 120/2007 : Mr.A.Shanmugaraj
& respondent in CMA 3474/2006

For respondent in CMA 119 and :Mr.M.Krishnamoorthy
120 of 2007 and appellant in CMA
3474 and 3475/2006

COMMON JUDGMENT

The facts in brief, are as follows:

On 23.10.1997 at about 6.00 a.m., the appellants / claimants in CMA No.119 of 2007 and the appellant/claimant in CMA No.120 of 2007, were travelling as cleaners in the van bearing Reg.No.TN-39-F-7666 along the G.S.T.Road from Valathikulam to Chennai. When the van reached Ajiz Nagar, Ulundurpet, the bus belonging to the respondent Transport Corporation in CMA Nos.119 and 120 of 2007, came from the opposite direction on the wrong side and dashed against the van in which the claimants were travelling. Due to the said impact, the appellant / claimant in CMA No.120 of 2007 sustained grievous injuries and the husband of the first appellant in C.M.A.No.119 of 2007, died in the accident. Claim petitions were filed before the Tribunal. The Tribunal awarded a compensation of Rs.4,00,000/- with interest at the rate of 9% per annum from the date of petition in respect of the claimants in CMA No.119 of 2007 and a sum of Rs.48,000/- with interest at the rate of 9% per annum from the date of petition in respect of the claimant in CMA No.120 of 2007. The Tribunal directed to pay the amounts fixing the interest rate at 9% per annum from the dates of respective petitions, within a period of three months, and the failure to pay the amounts within three months, would attract interest at the rate of 12%.

2.Challenging the awards, the respective claimants have come up with the appeals in CMA Nos.119 and 120 of 2007 and the Transport Corporation has come up with the appeals in CMA Nos.3474 and 3475 of 2006.

3.The learned counsel for the claimants in these appeals has submitted that originally the Tribunal has arrived at the award to the tune of Rs.5,03,000/- in respect of the claimants in CMA No.119 of 2007, but since the amount claimed by the claimants was Rs.4,00,000/-, the Tribunal restricted the award to Rs.4,00,000/-, which is not in accordance with law. The Tribunal ought to have awarded the arrived sum of Rs.5,03,000/- directing the

claimants to pay the deficit court fee for that amount. He also submitted that the compensation of Rs.48,000/- awarded by the Tribunal in respect of the claimant in CMA No.120 of 2007 is very low and that the Tribunal has not granted any amount towards loss of amenities and attender charges.

4.The learned counsel for the Transport Corporation has submitted that the Tribunal has erred in holding that the accident had occurred due to the rash and negligent driving of the driver of the bus. He also submitted that the compensation awarded by the Tribunal is excessive and exorbitant and that the Tribunal has erred in awarding interest at the excessive rate of 9% with default rate of 12%.

5.Heard the learned counsel on either side and perused the materials available on record carefully and meticulously.

6.Since there were discrepancies in the evidences adduced before the Tribunal, the Tribunal observed that from the evidence of R.W.1-Driver, it can be inferred that the accident had occurred only due to the rash and negligent driving of the driver of the bus belonging to the Transport Corporation, since the fact remained that no vehicles were proceeding in front of the bus in question and two vehicles came from the opposite direction. This Court is not inclined to interfere with the said factual finding rendered by the Tribunal.

7.With regard to the quantum of compensation, the Tribunal has rightly considered the materials and evidence and arrived at the just and fair compensation of Rs.5,03,000/- in respect of the claimants in C.M.A.No.119 of 2007, but it restricted the claim to the extent of Rs.4,00,000/- on the ground that the claimants restricted their claim to that extent in the claim petition. This Court is of the view that once the Tribunal has arrived at the compensation, after taking note of the materials and evidences adduced, the same has to be awarded. Hence the compensation awarded by the Tribunal at Rs.4,00,000/- to the claimants in CMA No.119 of 2007 stands modified to Rs.5,03,000/-.

8.In respect of the quantum of compensation relating to the injured in CMA No.120 of 2007, this Court is of the considered opinion that awarding a sum of Rs.10,000/- towards loss of amenities and Rs.2,000/- towards attender charges, in addition to the compensation awarded by the Tribunal, would meet the ends of justice. Accordingly, the compensation awarded by the Tribunal at Rs.48,000/- to the

claimant in CMA No.120 of 2007 stands modified to Rs.60,000/-.

9.The modified amounts of compensation shall carry interest at the rate of 9% per annum from the respective dates of the petitions. It is made clear that the claimants have to pay the appropriate Court fee in order to receive the awarded amount.

10.The Transport Corporation is directed to deposit the modified amounts of compensation, less the amounts if any already deposited, within a period of six weeks from the date of receipt of a copy of this judgment. The minor claimants in CMA No.119 of 2007, would have attained majority by now. Hence, on such deposit, all the claimants are permitted to withdraw their respective shares, on making proper application before the Tribunal.

11.In the result, CMA No.119 of 2007 is allowed, CMA No.120 of 2007 is partly allowed and CMA Nos.3474 and 3475 of 2006 are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

KM

To

1.The Motor Accidents Claims Tribunal
Chief Judge, Fast Track Court No.I, Chennai.

2.The Section Officer,
VR Section, Madras High Court.

+1cc to Mr.A.Shanmugaraj, Advocate, S.R.No.61696

C.M.A.Nos.119 and 120 of 2007 and
C.M.P.No.12454 of 2017,
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CNR(CO)
CB(02/09/2020)