

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.2388 of 2004, 2592 of 2004, 3659 of 2004,
489 of 2005 and 1565 of 2005

CMA.No.2388 of 2004

S.Manimegalai,
Prop.Rainbow Motor Transport,
276-A, Raman Road,
Salem -4. ... Appellant/ Respondent1

Vs.

1. Perumayee ...1st Respondent/Claimant
2. Managing Director,
Tamilnadu State Transport Corporation,
Salem - 7. ...2nd Respondent/3rd respondent
3. M/s. United India Insurance Co. Ltd.,
Salem - 7.
(second appellant transposed as third respondent
vide order dated 25.08.2004 made in
memo in CMA.No.2388 of 2004)
... 3rd Respondent/2nd respondent

CMA.No.2592 of 2004

S.Manimegalai,
Prop.Rainbow Motor Transport,
276-A, Raman Road,
Salem -4. ... Appellant/ Respondent 1

Vs.

- 1.Lakshmi ...1st Respondent/Claimant
2. Managing Director,
Tamilnadu State Transport Corporation,
Salem - 7. ...2nd Respondent/3rd Respondent
3. M/s. United India Insurance Co.Ltd.,
Salem - 7.
(second appellant transferred as third respondent
vide order dated 27.9.2004 made in
memo in CMA.No.2592 of 2004)
...3rd Respondent/2nd respondent

CMA.No.3659 of 2004

1.S.Manimegalai,
Prop.Rainbow Motor Transport,
276-A, Raman Road,
Salem -4.

2.M/s.United India Insurance Co. Ltd
Salem-7.

.. Appellants/ Respondents1&2

Vs.

1. K.Radha
2. Minor K.Kalaivani
3. Minor K.Divya
4. Minor K.Sivaprakash
(Minors 2 to 4 rep. by mother & natural friend
first respondent K.Radha)
5.Palaniammal .. Respondents1 to 5/
Claimants 1 to 5
6. Managing Director,
Tamilnadu State Transport Corporation,
Salem - 7. ..6th Respondent/3rd Respondent

CMA.No.489 of 2005

1.S.Manimegalai,
Prop.Rainbow Motor Transport,
276-A, Raman Road,
Salem -4.

2.M/s.United India Insurance Co. Ltd
Salem-7.

.. Appellants/ Respondents1 & 2

Vs. सत्यमेव जयते

1. Sivabakiam
2. Minor Bakkiyasaraswathi
3. Minor Nivaskumar
4. Minor Udayakumar
5. Minor Santhoshkumar
(Minors 2 to 5 rep. by mother & Natural Guardian
first respondent Sivabakiam)
6. Thangammal .. Respondents1 to 6/ Claimants 1 to 6
7. Managing Director,
Tamilnadu State Transport Corporation,
Salem - 7. ..7th Respondent/3rd Respondent

CMA.No.1565 of 2005

1.S.Manimegalai,
Prop.Rainbow Motor Transport,
276-A, Raman Road,
Salem -4.

2.M/s.United India Insurance Co. Ltd
Salem-7.

.. Appellants/ Respondents1 & 2

Vs.

1. Panchali

..1st Respondent/Claimant

2. Managing Director,

Tamilnadu State Transport Corporation Ltd,

Salem - 7.

..2nd Respondent/3rd Respondent

CMA.Nos.2388, 2592 and 3659 of 2004 and 489 of 2005: Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 28.10.2003 in M.C.O.P.Nos.739, 740, 738 and 806 of 2002 respectively, on the file of the Motor Accidents Claims Tribunal, Additional District Judge & Fast Track Court No.2, Salem.

CMA.No.1565 of 2005: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the Judgment and Decree dated 12.10.2004 in M.C.O.P.No.1124 of 2002 on the file of the Motor Accidents Claims Tribunal, Additional District Judge & Special Judge for E.C. Act Cases, Salem.

For 1st Appellant : Mr.N.Vijayaraghavan in all CMAs

CMA.No.2388 of 2004

For R1 : M/s.Meenakumari

For R2 : Mr.P.Jagadeeswaran

For R3 : Mr.S.Arunkumar

CMA.No.2592 of 2004

For R1 : M/s.Meenakumari

For R2 : M/s.R.Arunmozhi

For R3 : Mr.P.Jagadeeswaran

CMA.No.3659 of 2004

For R1 to R5 : M/s.Meenakumari

For R6 : Mr.P.Jagadeeswaran

CMA.No.489 of 2005

For R1 to R6 : Mr.D.Balachandran

For R7 : M/s.R.Arunmozhi

CMA.No.1565 of 2005

For R1 : Mr.M.Selvam

For R2 : M/s.R.Arunmozhi

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

The present batch of appeals arise out of two separate judgments dated 28.10.2003 and 12.10.2004 passed by the Motor Accident Claims Tribunal, Salem, in M.C.O.P.Nos.738, 739, 740 and 806 of 2002 and 1124 of 2002 respectively. Since the issues involved herein are interlinked and interconnected, all the appeals were heard together and are being decided by this common judgment.

2.The facts leading to the filing of the claim petitions in brief are that on 10.03.2002, while the first respondent(s)/injured in CMA.Nos.2388 of 2004 and 1565 of 2005 and the deceased Krishnan were travelling in the State Transport Corporation bus bearing Regn.No.TN27 N 0922, plying from Salem to Mettur, one Manoharan and the first respondent in CMA.No.2592 of 2004, were travelling in the private bus bearing Regn.No.TN27 S 3388 belonging to the first appellant and insured with the second appellant insurance company plying from Mettur to Salem. About 5.00pm, when both the buses were nearing Mecheri Chandiramma Kadai, they had a head-on-collision. In the said accident, some persons succumbed to the injuries, besides others receiving injuries. Stating that the accident had occurred due to the rash and negligent driving of the driver of the private bus, the first respondent(s)/claimants and the legal heirs of the deceased Krishnan and Manoharan filed separate claim petitions claiming compensation. On consideration of the materials and evidence available on record, the Tribunal, vide two separate orders, awarded a total compensation of Rs.1,15,000/- to the claimant in MCOP.No.740 of 2004, Rs.1,83,000/- to the claimant in MCOP.No.1565 of 2005, Rs.1,68,000/- to the claimant in MCOP.No.2388 of 2004, Rs.7,11,500/- to the claimants in MCOP.No.3659 of 2004 and Rs.5,55,000/- to the claimants in MCOP.No.489 of 2005, with interest at the rate of 9% per annum from the date of the respective claim petitions. Aggrieved over the same, the insured and/or insurer of the private bus have filed the present appeals.

3. The learned counsel for the appellant(s) submitted that there was a head-on-collision involving two buses. However, the Tribunal has erred in holding that the driver of the private bus alone was negligent and was responsible for the accident. However, the learned counsel has not disputed the quantum of compensation awarded by the Tribunal.

4. The learned counsel for the respondent(s)/claimants and the learned counsel for the Transport Corporation bus, submitted that the Tribunal, after considering the oral and documentary evidence available on record, has rightly rendered its findings on negligence and fastened the liability on the insured and

insurer of the private bus and ultimately, awarded the just compensation and hence, the same do not call for any interference at the hands of this Court.

5. Heard all the parties and perused the records.

6. It was put forth on the side of the appellant(s) that the accident had occurred, due to the fault on the part of the drivers of both the buses. However, the Tribunal has erred in holding that the driver of the private bus alone was responsible for the accident. On a perusal of the award, it is seen that the Tribunal, based on Ex.P1 First Information Report, which was registered against the driver of the private bus, had come to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the private bus. This Court is not inclined to accept the finding so rendered by the Tribunal. Since it is a case of head-on-collision, the facts speak for themselves that there was a composite negligence by the drivers of both the vehicles. Though the evidence and materials show that the driver of the private bus was rash and negligent in driving and was responsible for the accident, the State Transport Corporation bus driver was also responsible for the accident to some extent, as he was not diligent and he failed to slow down the bus or turn it to other side on seeing the oncoming bus. Thus, on the facts and circumstances of the case, this Court is of the view that the driver of the State Transport Corporation bus was also responsible for the accident to the extent of 25%. Accordingly, the State Transport Corporation is directed to pay 25% of the compensation awarded by the Tribunal to the respective claimant(s).

7. Since the quantum of compensation awarded by the Tribunal is not disputed by the appellant(s), the same are confirmed as such.

8. In the result, all the Civil Miscellaneous Appeals are partly allowed. No costs. The respondent/Transport corporation is directed to deposit 25% of the compensation amount as awarded by the Tribunal, with interest, within a period of six weeks from the date of receipt of a copy of this judgment.

9. It is reported that the appellant(s) had already deposited the entire compensation amount and that, the minor claimants would have attained majority as of now. Hence, all the claimants are permitted to withdraw their respective shares, as per the ratio of apportionment made by the Tribunal, on making proper application. The appellant(s) is/are permitted to

withdraw the excess amount lying in the deposit, on making proper application.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The Motor Accidents Claims Tribunal,
Additional District Judge & Fast Track Court No.2,
Salem.

2.The Motor Accidents Claims Tribunal, Additional District
Judge & Special Judge for E.C. Act Cases, Salem.

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

+5ccs to Mr.M.B.Gopalan , Advocate SR.No. 59284,59286, 59287,
59285, 59289

+4ccs to Mr.D.Balachandran , Advocate SR.No. 58612,58671,
58670, 58673,

+1cc to M/s.R.Arunmozhi , Advocate SR.No. 52512

+1cc to Mr.M.Selvam , Advocate SR.No. 58730

C.M.A.Nos.2388 of 2004, 2592 of 2004, 3659 of 2004,
489 of 2005 and 1565 of 2005

NR

A.SK(23/11/2020)

सत्यमेव जयते

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