



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2019

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.M.A(MD)No.1176 of 2009

The Oriental Insurance Co. Ltd.,
Thillai Nagar, Trichy

... Appellant /3rd Respondent

Vs.

Marudhamuthu (Died)

1.Arjunan

2.Jaya

3.Ilakkia

(R-3 declared as Major and R-2 discharged
from her guardianship as per Court order,
dated 10.08.2018 in CMP(MD)Nos.1829 &
1830 of 2018 in CMA(MD)No.1176 of 2009)

...Respondents 1 to 3/
Petitioners

4.P.Mookan Dhas

...4th respondent / 1st respondent

5.M/s.Manimekalai Transport Company,
Represented by its Proprietor,
Anna Nagar, Trichy - 17.
(4th and 5th respondents remained
exparte before the lower Court)

...6th respondent / 2nd respondent

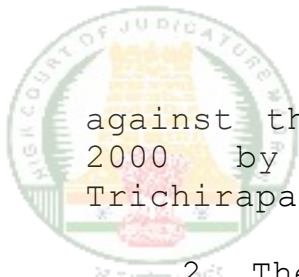
PRAYER:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Award and decree order dated 31.01.2008 made in M.C.O.P.No.2248 of 2000 on the file of the Motor Accidents Claims Tribunal cum Additional District Judge(FTC-I), Trichirapalli.

For Appellant : Mr.K.Bhaskaran

For R-1 to R-3 : Mr.M.Mohan Gandhi

J U D G M E N T

<https://hcservices.courts.gov.in/hcservices/> In the present Civil Miscellaneous Appeal challenge is made



against the order dated 31.01.2008 passed in M.C.O.P.No.2248 of 2000 by the learned Additional District (FTC) Judge, Trichirapalli.

2. The case of the claimants is that on 05.05.2000 at about 9.30 p.m. the injured petitioners Maruthamuthu was travelling as a passenger in Manimekalai Transport bus bearing registration No.TN 45 J 1233, which belongs to the second respondent, from Trichy to Pudhur Uthamanur towards West to East and the bus was stopped at Kalpalayam Branch road and thereafter, while the injured petitioner was trying to get down the bus, the first respondent/driver of the bus, started the bus rash and negligently, without watching the petitioner, as a result of which, the injured petitioner fell down from the bus and the back wheel of the bus run over him and his both legs were fractured. Thereafter, still his death, he was under treatment. He was died on 08.10.2003 due to the injuries sustained in the accident.

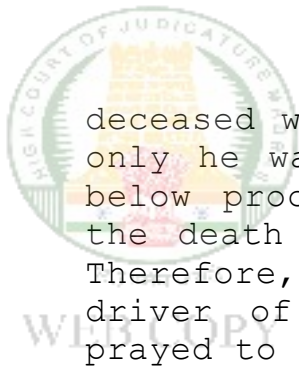
3.Originally the claim petition in M.C.O.P.No.2248 of 2000 on the file of the Motor Accidents Claims Tribunal cum District Additional (FTC) Judge, Trichirapalli was filed by the injured claimant seeking compensation and after his death, the legal heirs of the deceased were impleaded as claimants.

4.Before the Tribunal, on the side of the claimants two witnesses were examined as P.Ws.1 and 2 and ten documents were marked as Ex.P.1 to Ex.P.10. On the side of the respondents, no oral and documentary evidence was marked.

5.The Tribunal, after considering the pleadings, oral and documentary evidence and arguments of the counsel for the appellant and claimants and also on appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the driver of the bus, which is insured with the appellant/Insurance Company and directed both the appellant/Insurance Company and driver of the bus jointly to pay a sum of Rs.82,000/-, along with interest at the rate of 7.5% as compensation.

6. Against which, the appellant/Insurance Company has filed this present appeal mainly questioning the liability and also quantum.

7.According to the learned counsel for the appellant/Insurance Company, the accident was occurred on 05.05.2000 and due to that the deceased Maruthamuthu sustained injuries and thereafter, he passed away on 08.10.2003 due to the reason he was drowned into the water. It is the contention of the appellant that the Court below has come to the conclusion that due to the accident, the



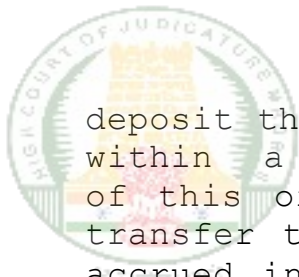
deceased was sustained grievous injuries and due to that injuries only he was drowned into the water. So on that basis, the Court below proceeded and awarded the compensation. According to him, the death was not occurred due to the drowning of the deceased. Therefore, he contended that the liability fixed against the driver of the bus is totally unjustifiable and therefore, he prayed to set aside the award passed by the Court below.

8.Per contra, the learned counsel for the respondents/claimants would contend that the Tribunal has awarded a just and reasonable compensation only for the injuries sustained by the deceased and not for his death and that the award of the Tribunal does not require any interference and hence, this appeal is to be dismissed.

9.On perusal of the FIR, it is seen that due to the negligence on the part of the driver only, the accident was occurred and thereby when he was getting down from the bus, all of a sudden he started to move the bus and thereby the deceased was sustained injuries. Apart from that P.W.2, who travelled along with the deceased, also deposed stating that the accident occurred due to the sudden moving of the bus. Thereafter, due to the said injuries, the deceased was admitted in the hospital and thereafter, he was taken treatment till 30.05.2000 as inpatient and in this regard, he marked the discharge summary-Ex.P4 along with Ex.P2-Wound Certificate. He has also filed Exs.P5 to P7-various medical bills. Therefore, the present claim is made merely against the injuries sustained against the accident not pertaining to the death of the deceased due to the accident and the compensation also awarded only for the injuries sustained and not for the death. Therefore, on the basis of evidence only, the Tribunal has arrived at the conclusion that the accident occurred due to negligence on the part of the driver of the bus and has rightly fixed the liability on the driver of the appellant and hence, the same does not require any interference.

10.As far as the quantum of compensation is concerned, the amounts awarded by the Tribunal under all the heads are just and reasonable and therefore, there is no infirmity in the award passed by the Tribunal and the same does not require interference at the hands of this Court.

11. In the result, this Civil Miscellaneous Appeal is dismissed and the award made in M.C.O.P.No.2248 of 2000, dated 31.01.2008 on the file of the Motor Accidents Claims Tribunal cum Additional District (FTC) Judge, Trichirapalli, is hereby confirmed. It is represented by the learned counsel for the appellant that 50% of the award amount had already been deposited and therefore, the appellant/Insurance Company, is directed to



deposit the balance award amount with accrued interests and costs, within a period of six weeks from the date of receipt of a copy of this order and on such deposit, the Tribunal is directed to transfer the entire award amount namely **Rs.82,000/-** along with accrued interest and costs directly to the Personal Savings Bank Account Number of the appellants/claimants through RTGS/NEFT system, after getting his Account Details, within a period of two weeks thereafter. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To,

1.The Additional District Judge(FTC-I),
Motor Accidents Claims Tribunal,
Trichirappalli.

2.The Record Keeper,-2 copies
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.K.BHASKARAN, Advocate (SR-96890[F] dated 08/11/2019)

+1 CC to Mr.S.M.MOHAN GANDHI, Advocate (SR-96775[F] dated
07/11/2019)

C.M.A(MD)No. 1176 of 2009

07.11.2019

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