



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 14.12.2020

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.504 of 2009

and

M.P.(MD)No.1 of 2009

United India Insurance Company
Limited, through its Branch Manager,
Namakkal.

.. Appellant/3rd Respondent

vs.

1.Pasupathi
2.Bakkialakshmi
3.Muthulakshmi
4.Jayalakshmi
5.Minor Vijayakumar
6.Minor Selvakumar
7.Arulsamy
8.Petchiammal

..Respondents 1 to 8/
Petitioners 1 to 8

(Claimants 5 & 6 are represented through
their mother and next friend claimant No.1)

9.Tamil Nadu State Transport Corporation
Limited (Madurai Division V) through its
Managing Director,
Collectorate Complex,
Virudhunagar.

..9th Respondent/ 1st Respondent

10.K.Palanisamy

..10th Respondent/ 2nd Respondent

(Respondents 2 to 4 declared as major and
guardianship discharged vide Court
Order Dated 12.04.2016 in CMP(MD)No.2695/2016
in CMA(MD)No.504/2009)

Prayer: Civil Miscellaneous Appeal filed under Section 173 of
Motor Vehicles Act 1988, against the Award and Decree dated
12.05.2004 made in M.C.O.P.No.1374 of 2002 on the file of the
Motor Accidents Claims Tribunal (Fast Track Court No.2),
Tirunelveli.



For Appellant : Mr.J.S.Murali
For R1 to R8 : Mr.T.Selvakumaran
For R9 : Mr.R.Janakiramulu
For R10 : No appearance

J U D G M E N T

Challenging the award passed by the Motor Accident Claims Tribunal in M.C.O.P.No.1374 of 2002, dated 12.05.2004, the appellant/Insurance Company has filed this appeal.

2.Brief facts of the case are that on 13.06.2002 at about 23.30 hours when the deceased Paulraj was travelling from Madurai to Vasudevanallur in a bus bearing registration No.TN-67-N-0141 belonged to the first respondent, for his business, at that time, a Lorry bearing Registration No.TN-28-C-4165 belonged to the second respondent insured with the third respondent was coming from South to North and both the vehicles dashed against each other and thereby both the drivers died on the spot. Some of the passengers succumbed to the injuries and some of them sustained grievous and simple injuries. Paulraj died on the way to hospital. Alleging that the accident had taken place due to the rash and negligent driving of the driver of both buses, legal heirs, namely, the wife, children and parents of the deceased Paulraj laid a petition, claiming compensation of Rs.15,00,000/-.

3.Resisting the claim, the appellant Insurance Company filed their counter disputing the manner of accident, age, avocation and income of the deceased and its liability to pay the compensation.

4. On the side of the claimants P.W.1 & P.W.2 were examined and Ex.P1 to Ex.P6 were marked. On the side of the appellant, R.W.1 Chelladurai was examined and no document was marked.

5.The Tribunal, after considering the oral and documentary evidence held that the driver of both vehicles are responsible for the accident and awarded compensation of Rs.3,08,000/- along with interest at the rate of 9% p.a., and directed the appellant and the Transport Corporation to pay the award amount. Challenging the award, the appellant has filed the present appeal.

6.Heard the learned counsel appearing on either side and perused the materials available on record.

7. To prove the negligence aspect, the claimants examined P.W.2 as eye witness to the accident. In addition, Ex.P1-FIR, Ex.P2-observation mahazar, Ex.P-3 Rough Sketch, Ex.P4-Motor Vehicle Inspector Report were marked. After analysing the evidence, the Tribunal held that this is a case of head on collision, in which, both drivers died on the spot. Even though,



a criminal case registered against the driver of the bus, the contention of the appellant that the entire liability should be fixed on the driver of the bus, was rejected. I see no reason to interfere with the finding of the Tribunal. Hence, it is confirmed.

WEB COPY

8. A Perusal of the judgment of the Tribunal would show that the Tribunal after considering the evidence of the witnesses and Exhibits held that the deceased died at the age of 45 years and his monthly income was Rs.2,250/- After deducting 1/3rd for his personal expenses of the deceased and applying multiplier '15', the tribunal has awarded a sum of Rs.2,70,000/-- to the claimants towards loss of income and another sum of Rs.10,000/- towards loss of Consortium to the first claimant and a sum of Rs.25,000/- towards loss of love and affection and a sum of Rs.3,000/- towards funeral expenses and totally awarded a sum of Rs.3,08,000/- with interest at 9% p.a. Though the learned counsel for the appellant Insurance company has contended that the award is on the higher side and it requires reduction, this Court is of the view that the Tribunal has awarded a just and reasonable compensation.

9. In that view, the Civil Miscellaneous Appeal is dismissed, as devoid of merits. Since the appeal is dismissed, the appellant and the Transport Corporation is directed to deposit the entire award amount with accrued interest and costs, less the amount already deposited, if any, within a period of eight weeks from the date of receipt of a copy of this order. On such deposit being made, the respondents 1 to 4 and 7 & 8/Claimants 1 to 4 and 7 & 8 are permitted to withdraw the award amount as per the ratio of apportionment made by the Tribunal, by making necessary application before the Tribunal. The Tribunal shall deposit the share of the minor claimants 5 & 6/respondents 5 & 6 in any one of the Nationalized bank in a Fixed Deposit initially for a period of three years and renewable thereafter, till the minors attain majority. The mother of the minor claimants/1st respondent is permitted to withdraw the accrued interest once in three months directly from the bank. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



am

To

The Additional District Judge,
Motor Accidents Claims Tribunal,
(Fast Track Court No.2), Tirunelveli.

Copy to

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

+2 cc to Mr.T.Selvakumaran , Advocate SR.No.25465&25801

+1 cc to Mr.J.S.Murali , Advocate SR.No.25628

+1 cc to Mr.R.Janakiramulu , Advocate SR.No.25664

JUDGMENT MADE IN
C.M.A(MD) No.504 of 2009
14.12.2020

KM (16.02.2021) 4P 8C