

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 19.03.2021

CORAM:

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

C.M.A.Nos.996, 998, 1001 & 1004 of 2021  
and C.M.P.Nos.5503, 5506 & 5513 of 2021

The Managing Director,  
Tamil Nadu State Transport Corporation (VPM) Limited,  
3/137, Salamedu, Vazhuthareddy,  
Villupuram 605 602.

.. Appellant in all  
the appeals

**Vs.**

1.Gayithri  
2.Minor Navay  
3.Minor Venila  
(Minors represented by their next friend/  
mother Gayithri, 1<sup>st</sup> respondent)

.. Respondents in  
C.M.A.No.996/2021

1.Indirani

2.Sivapriya

3.Kalaiselvi

4.Minor Sakthi Sundaram

(Minor represented by his next friend/  
mother Indirani, 1<sup>st</sup> respondent)

.. Respondents in  
C.M.A.No.998/2021

1.Bhagyamm

2.Minor Dhanush

3.Minor Pallavi

(Minors represented by their next friend/  
mother Bhagyamm, 1<sup>st</sup> respondent)

4.Pillamma

.. Respondents in  
C.M.A.No.1001/2021

N.Kalaiselvi

.. Respondent in  
C.M.A.No.1004/2021

**Common Prayer:** These Civil Miscellaneous Appeals are filed under Section 173 of Motor Vehicles Act, 1988, against the common Judgment and Decree dated 16.06.2020 made in M.C.O.P.Nos.871, 869, 870 and 872 of 2018 on the file of Motor Accidents Claims Tribunal, Additional District Court, Krishnagiri.

For Appellant : Mr.K.J.Sivakumar  
(In all C.M.As.)

**COMMON JUDGMENT**

(These matters are heard through “Video Conferencing/Hybrid mode”)

These Civil Miscellaneous Appeals are filed by the Transport Corporation to set aside the common judgment and decree dated 16.06.2020 made in M.C.O.P.Nos.871, 869, 870 and 872 of 2018 on the file of Motor Accidents Claims Tribunal, Additional District Court, Krishnagiri.

2.All the Civil Miscellaneous Appeals arise out of the same accident and common award and hence, they are disposed of by this common judgment.

3.The appellant-Transport Corporation is the respondent in M.C.O.P.Nos.871, 869, 870 and 872 of 2018 on the file of Motor Accidents Claims Tribunal, Additional District Court, Krishnagiri. The respondents in C.M.A.Nos.996, 998 and 1001 of 2021 filed the claim petitions in M.C.O.P.Nos.871, 869, 870 of 2018, claiming a sum of Rs.25,00,000/-, Rs.30,00,000/- and Rs.30,00,000/- respectively as compensation for the death of Ramappa, Nagaraj and Chandrasekar respectively and respondent in C.M.A.No.1004 of 2021 filed the claim petition in M.C.O.P.No.872 of 2018, claiming a sum of Rs.30,00,000/- as compensation for the injuries sustained by her in the accident that took place on 09.06.2017.

4.The parties are referred to as per their respective ranks in the claim petitions, for the sake of convenience.

5. According to the claimants, on the date of accident, while the deceased Ramappa in M.C.O.P.No.871 of 2018 was driving a Qualis Car bearing Registration No.KA 16 P 9608 along with the deceased Nagaraj in M.C.O.P.No.869 of 2018, deceased Chandrasekar in M.C.O.P.No.870 of 2018 and injured claimant in M.C.O.P.No.872 of 2018, slowly, cautiously, observing all the rules of the road, sounding horn and keeping to the left side of the road on Dindivanam to Gingee road, towards Gingee, near Uranithangal village, one Iruthayam house, the driver of a Bus belonging to appellant-Transport Corporation, who drove the Bus from opposite direction, in a rash and negligent manner, without observing any rules of the road, without sounding horn, at an uncontrollable speed, from Gingee towards Dindivanam, suddenly dashed against the Qualis Car and caused the accident. In the accident, the deceased Ramappa, Nagaraj and Chandrasekar sustained fatal injuries and the claimant in M.C.O.P.No.872 of 2018 sustained grievous injuries. The accident occurred only due to rash and negligent driving by driver of the Bus belonging to the respondent-Transport Corporation. Therefore, the claimants/claimant filed the above said claim petitions claiming compensation against the respondent-Transport Corporation.

6.The respondent-Transport Corporation filed separate counter statements and denied all the averments made by the claimants. According to the respondent, at the time of accident, the driver of the Bus drove the same slowly, cautiously, by following all the road traffic rules with sounding horn. The deceased Ramappa who drove the Car on the left side of the road, suddenly changed his course and turned the vehicle to the middle of the road and invited the accident. The accident occurred only due to the careless driving of the driver of the Qualis Car in the busy road without following rules of the road and he himself involved in the accident. Hence, the entire liability cannot be fastened on the respondent. The claim petition is bad for non-joinder of owner and insurer of the Qualis Car involved in the accident. At the time of accident, the driver of the Qualis Car viz., deceased Ramappa did not possess valid and effective driving license to ply the vehicle. The claimants in M.C.O.P.Nos.871, 869, 870 of 2018 have to prove the age, avocation and income of the deceased persons and the claimant in M.C.O.P.No.872 of 2018 has to prove her age, avocation and income, injuries sustained and treatment taken to claim compensation. In any event, the total compensation claimed by the claimants/claimant in all the claim petitions are excessive and prayed for dismissal of the claim petitions.

7.Before the Tribunal, the 1<sup>st</sup> claimant in M.C.O.P.Nos.869, 870, 871 of 2018 examined themselves as P.W.1, P.W.2, P.W.3 respectively, the claimant in M.C.O.P.No.872 of 2018, eye-witness to the accident, examined herself as P.W.4 and 35 documents were marked as Exs.P1 to P35. The respondent-Transport Corporation examined one M.S.Senthilkumar, driver of the Bus as R.W.1, but did not mark any document. The disability certificate of P.W.4 was marked as Ex.C1.

8.The Tribunal considering the pleadings, oral and documentary evidence, held that accident occurred due to negligence of both the driver of the Car viz., deceased Ramappa in M.C.O.P.No.871 of 2018 as well as the driver of the Bus and fixed 65% contributory negligence on the part of the deceased Ramappa and 35% negligence on the driver of the Bus. The Tribunal awarded a sum of Rs.19,73,932/-, Rs.14,87,500/-, Rs.19,60,000/- and Rs.2,60,000/- and directed the respondent-Transport Corporation to pay a sum of Rs.6,90,876/-, Rs.5,20,625/-, Rs.6,86,000/- and Rs.91,000/- being 35% of the award amounts, as compensation to the claimants/claimant in all the claim petitions respectively.

9.To set aside the said common award dated 16.06.2020 made in M.C.O.P.Nos.871, 869, 870 and 872 of 2018, the respondent-Transport Corporation has come out with the present appeals.

10.The learned counsel appearing for the respondent-Transport Corporation contended that the accident occurred only due to the negligence of the deceased Ramappa who drove the Qualis Car from opposite direction, in a rash and negligent manner and dashed on the Bus belonging to the respondent-Transport Corporation. The respondent-Transport Corporation examined the driver of the bus as R.W.1 and proved that the accident occurred only due to rash and negligent driving by deceased, driver of the Qualis Car. P.W.1 to P.W.3 examined by the claimants, are not eye-witness to the accident. The Tribunal without considering the evidence let in by the respondent-Transport Corporation and FIR registered against the deceased, driver of the Qualis Car, erroneously fixed 35% negligence on the part of the driver of the Bus and liability on the appellant. The claimants did not file any document to prove the avocation and income of the deceased. In the absence of any document, the monthly income of the deceased persons fixed

by the Tribunal are on the higher side. The claimant in M.C.O.P.No.872 of 2018 failed to prove the injuries and disability suffered by her. The Tribunal ought not to have taken the permanent disability of the claimant as 70%, which is on the higher side. In the absence of any evidence, the amounts awarded by the Tribunal in all the claim petitions are excessive and prayed for setting aside the common award passed by the Tribunal.

11.Heard the learned counsel appearing for the respondent-Transport Corporation and perused the entire materials on record.

12.It is the case of the claimants/claimant that while the deceased Ramappa was driving his Qualis Car, the driver of the Bus belonging to the respondent-Transport Corporation drove the same in a rash and negligent manner from opposite direction, hit against the Car driven by the deceased Ramappa and caused the accident. To substantiate this contention, the 1<sup>st</sup> claimant in M.C.O.P.Nos.869, 870, 871 of 2018 examined themselves as P.W.1, P.W.2, P.W.3 respectively, the claimant in M.C.O.P.No.872 of 2018, eye-witness to the accident, examined herself as P.W.4 and marked FIR as Ex.P1. FIR was registered against the deceased Ramappa/driver of the

Qualis Car. On the other hand, it is the contention of the respondent-Transport Corporation that while the Bus belonging to them was driven carefully, the deceased Ramappa / driver of the Qualis Car, drove the same from opposite direction, in a rash and negligent manner at an uncontrollable speed and hit against the Bus and caused the accident. To prove their case, the respondent examined the driver of the Bus as R.W.1. The respondent has not examined any independent witness to prove their contention. R.W.1, the driver of the Bus is an interested witness. The Tribunal considering the fact that the accident occurred due to head on collision, held that the accident occurred due to rash and negligent driving by drivers of both the Qualis Car as well as the Bus and fixed 65% negligence on the driver of the Qualis Car and 35% negligence on the driver of the Bus. There is no error in the said finding of the Tribunal warranting interference by this Court.

13.As far as quantum of compensation in C.M.A.No.996 of 2021 is concerned, it is the contention of the claimants in M.C.O.P.No.871 of 2018 that the deceased Ramappa was aged 28 years, working as a Car Driver and was earning a sum of Rs.30,000/- per month. The claimants did not file any document to prove the avocation and income of the deceased. In the absence

of any material evidence with regard to avocation and income, the Tribunal fixed a sum of Rs.10,000/- per month as notional income of the deceased, applied multiplier '17', granted 40% enhancement towards future prospects and awarded a sum of Rs.19,03,932/- as compensation to the claimants under different heads, which is not excessive and the same is hereby confirmed.

14.As far as quantum of compensation in C.M.A.No.998 of 2021 is concerned, it is the case of the claimants that the deceased Nagaraj was aged 42 years, doing Timber business and also an Agriculturist and was earning a sum of Rs.30,000/- per month. The claimants did not file any document to prove the avocation and income of the deceased. In the absence of any material evidence with regard to avocation and income, considering the nature of work done by the deceased, the Tribunal fixed a sum of Rs.9,000/- per month as notional income, applied multiplier '14', granted 25% enhancement towards future prospects and awarded a sum of Rs.14,87,500/- as compensation to the claimants under different heads, which is not excessive and the same is hereby confirmed.

15.As far as quantum of compensation in C.M.A.No.1001 of 2021 is concerned, it is the contention of the claimants in M.C.O.P.No.870 of 2018 that the deceased Chandrasekar was aged 36 years, working as a Car Driver and was earning a sum of Rs.40,000/- per month. The claimants did not file any document to prove the avocation and income of the deceased. In the absence of any material evidence with regard to avocation and income, the Tribunal fixed a sum of Rs.10,000/- per month as notional income of the deceased, applied multiplier '15', granted 40% enhancement towards future prospects and awarded a sum of Rs.19,03,932/- towards loss of dependency, which is not excessive. The amounts awarded by the Tribunal under other conventional heads are not excessive, warranting interference by this Court and hence, the same is hereby confirmed.

16.As far as quantum of compensation in C.M.A.No.1004 of 2021 is concerned, the Medical Board examined the claimant in M.C.O.P.No.872 of 2018 and certified that claimant suffered 70% disability. The Tribunal considering the percentage of disability assessed by the Medical Board, awarded a sum of Rs.2,10,000/- towards disability at the rate of Rs.3,000/- per percentage of disability. This Court by the judgment reported in **2020**

**(1) TN MAC 617 [M. Chinnathambi Vs. S.Deepa and another]**, fixed a sum of Rs.4,000/- per percentage of disability for the accident occurred in the year 2014 & 2015 and a sum of Rs.5,000/- per percentage of disability for the accident occurred from the year 2016 onwards, due to raise in cost of living. In the present case, the accident is of the year 2017. In view of the same, the amount awarded by the Tribunal towards disability is not excessive. The total compensation granted by the Tribunal under different heads is not excessive and hence, the same is hereby confirmed.

17.In the result,

(i)C.M.A.No.996 of 2021 is dismissed and the compensation awarded by the Tribunal at Rs.19,73,932/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit is confirmed. The respondent-Transport Corporation is directed to deposit a sum of Rs.6,90,876/-, being 35% of the amount awarded by the Tribunal along with proportionate interest and costs, less the amount, if any already deposited, within a period of twelve weeks from the date of receipt of a copy of this common judgment to the credit of M.C.O.P.No.871 of 2018 on the file of

the Motor Accident Claims Tribunal, Additional District Court, Krishnagiri. On such deposit, the 1<sup>st</sup> claimant is permitted to withdraw her share of the award amount, as per the ratio of apportionment fixed by the Tribunal, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. The share of the minor claimants 2 and 3 are directed to be deposited in any one of the Nationalized Banks, till the minor claimants 2 & 3 attain majority. On such deposit, the 1<sup>st</sup> claimant, being the mother of the minor claimants 2 & 3 is permitted to withdraw the accrued interest once in three months for the welfare of the minor claimants 2 & 3.

(ii)C.M.A.No.998 of 2021 is dismissed and the compensation awarded by the Tribunal at Rs.14,87,500/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit is confirmed. The respondent-Transport Corporation is directed to deposit a sum of Rs.5,20,625/-, being 35% of the amount awarded by the Tribunal along with proportionate interest and costs, less the amount, if any already deposited, within a period of twelve weeks from the date of receipt of a copy of this common judgment to the credit of M.C.O.P.No.869 of 2018 on

the file of the Motor Accident Claims Tribunal, Additional District Court, Krishnagiri. On such deposit, the claimants 1 to 3 are permitted to withdraw their share of the award amount, as per the ratio of apportionment fixed by the Tribunal, along with proportionate interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. The share of the minor 4<sup>th</sup> claimant is directed to be deposited in any one of the Nationalized Banks, till the minor 1<sup>st</sup> claimant attains majority. On such deposit, the 1<sup>st</sup> claimant, being the mother of the minor 4<sup>th</sup> claimant is permitted to withdraw the accrued interest once in three months for the welfare of the minor 4<sup>th</sup> claimant.

(iii) C.M.A.No.1001 of 2021 is dismissed and the compensation awarded by the Tribunal at Rs.19,60,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit is confirmed. The respondent-Transport Corporation is directed to deposit a sum of Rs.6,86,000/-, being 35% of the amount awarded by the Tribunal along with proportionate interest and costs, less the amount, if any already deposited, within a period of twelve weeks from the date of receipt of a copy of this common judgment to the credit of M.C.O.P.No.870 of 2018 on

the file of the Motor Accident Claims Tribunal, Additional District Court, Krishnagiri. On such deposit, the claimants 1 and 4 are permitted to withdraw their share of the award amount, as per the ratio of apportionment fixed by the Tribunal, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal. The share of the minor claimants 2 and 3 are directed to be deposited in any one of the Nationalized Banks, till the minor claimants 2 & 3 attain majority. On such deposit, the 1<sup>st</sup> claimant, being the mother of the minor claimants 2 & 3 is permitted to withdraw the accrued interest once in three months for the welfare of the minor claimants 2 & 3.

(iv) C.M.A.No.1004 of 2021 is dismissed and the compensation awarded by the Tribunal at Rs.2,60,000/- together with interest at the rate of 7.5% per annum from the date of petition till the date of deposit is confirmed. The respondent-Transport Corporation is directed to deposit a sum of Rs.91,000/-, being 35% of the amount awarded by the Tribunal along with interest and costs, less the amount, if any already deposited, within a period of twelve weeks from the date of receipt of a copy of this common judgment to the credit of M.C.O.P.No.872 of 2018 on the file of

the Motor Accident Claims Tribunal, Additional District Court, Krishnagiri. On such deposit, the claimant is permitted to withdraw the award amount, along with interest and costs, less the amount if any, already withdrawn by making necessary applications before the Tribunal.

18.It is represented by the learned counsel appearing for the appellant-Transport Corporation that Bus bearing Registration No.TN 23 N 2683 belonging to respondent-Transport Corporation was attached in E.P.No.116 of 2020 vide attachment order dated 12.03.2021 in C.M.A.No.996 of 2021 (M.C.O.P.No.871 of 2018) and the Bus bearing Registration No.TN 25 N 0544 belonging to respondent-Transport Corporation was attached in E.P.No.117 of 2020 vide attachment order dated 12.03.2021 in C.M.A.No.1001 of 2021 (M.C.O.P.No.870 of 2018). In view of the order passed by this Court in these two appeals, the respondent-Transport Corporation is directed to deposit 25% of the 35% of the award amount determined by the Tribunal [i.e., Rs.1,72,719/- (25% of Rs.6,90,876/-) in C.M.A.No.996 of 2021 and Rs.1,71,500/- (25% of Rs.6,86,000/-) in C.M.A.No.1001 of 2021] within a period of four weeks from today. On such deposit being made by the respondent-Transport

Corporation, the learned Additional District Judge, Krishnagiri is directed to release the Buses bearing Registration Nos.TN 23 N 2683 and TN 25 N 0544 that were attached on 12.03.2021 vide E.P.Nos.116 and 117 of 2020 respectively. The respondent-Transport Corporation is directed to deposit another 25% of the 35% of the award amount [i.e., Rs.1,72,719/- (25% of Rs.6,90,876/-) in C.M.A.No.996 of 2021 and Rs.1,71,500/- (25% of Rs.6,86,000/-) in C.M.A.No.1001 of 2021] within a period of four weeks thereafter and the remaining 50% of the 35% of the award amount [i.e., Rs.3,45,438/- (50% of Rs.6,90,876/-) in C.M.A.No.996 of 2021 and Rs.3,43,000/- (50% of Rs.6,86,000/-) in C.M.A.No.1001 of 2021], within a period of four weeks thereafter.

19.In the result, all these Civil Miscellaneous Appeals are dismissed.

Consequently, the connected Miscellaneous Petitions are closed. No costs.

सत्यमेव जयते

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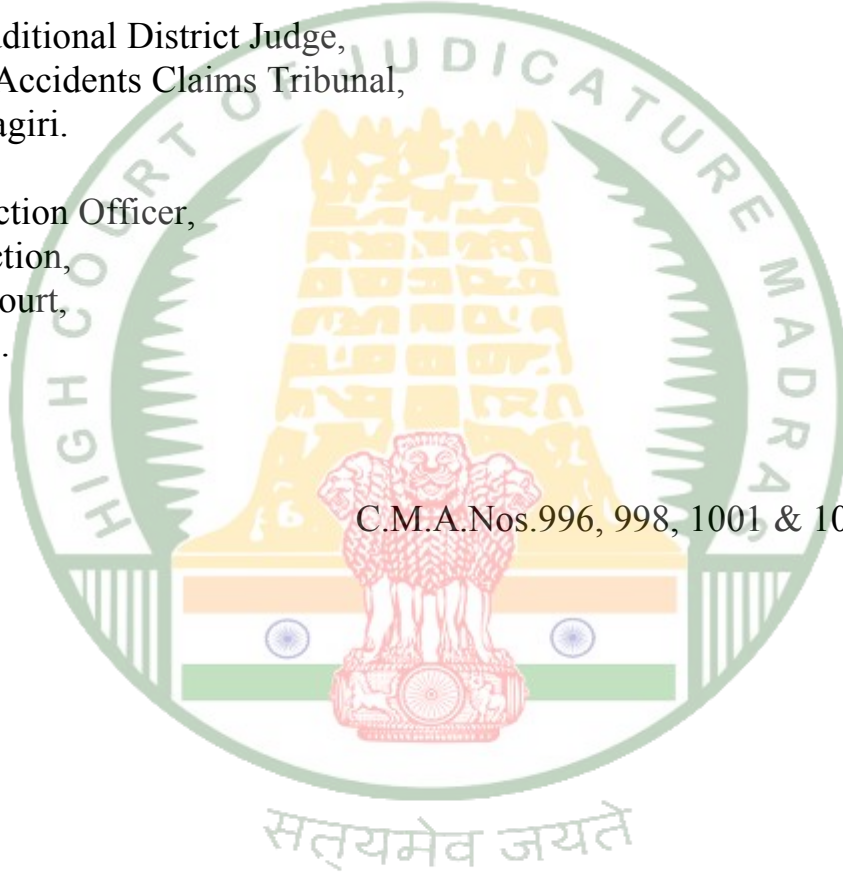
**NOTE:** Issue order copy by 23.03.2021.

**V.M.VELUMANI, J.**

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To

- 1.The Additional District Judge,  
Motor Accidents Claims Tribunal,  
Krishnagiri.
- 2.The Section Officer,  
VR Section,  
High Court,  
Madras.



C.M.A.Nos.996, 998, 1001 & 1004 of 2021

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