



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2021

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

CIVIL MISCELLANEOUS APPEAL NO.2563 & 2564 OF 2013

The Managing Director
Tamil Nadu State Transport Corporation Ltd.,
Salem Division - I,
No.12, Ramakrishna Road,
Salem - 7.

...Appellant in both appeals /
Respondent

..Vs..

1.Kannappan
2.Minor Nandhakumar

...Respondents in both appeals /
Petitioners

Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and decree dated 29.06.2012 made in M.C.O.P.No.145 & 146 of 2008 on the file of I Additional District Judge (Motor Accidents Claims Tribunal), Salem.

For Appellant	:	Mr.Ramanathan for Mr.D.Venkatachalam
For Respondent No.1	:	Batta due
For Respondent No.2	:	Minor

COMMON JUDGMENT

Both the appeals arises out of the very same accident occurred on 23.6.2005 at Krishnagiri - Bangalore highways. Hence, both the appeals are heard together and are being disposed of by common judgment.

2. One 23.6.2005, the deceased Duraisamy was riding his bicycle along with one Nandhini as a pillion rider, proceeding towards Kakkanapuram, following all traffic rules and regulations in a careful manner, at about 7.15 p.m. when the deceased Duraisamy was negotiating Guruparapalli Petrol Bunk at the Krishnagiri - Bangalore Highways, a bus bearing registration No.TN-27-N-1498 (Route No.985) plying from Thiruvannamalai to Bangalore, bus driver Mani drove the bus in a rash and negligent manner without following traffic rules and regulations with high speed and hit against the backside of the bicycle and smashed the deceased Duraisamy and the deceased Nandhini, under the



wheel, resulting in both lost their lives on the spot. In this connection, Guruparapalli police has registered a criminal case as against the driver of the bus in Cr.No.163 of 2005 under Section 279 and 304(A) of I.P.C.

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3. O.P.No.145 of 2008 has been filed against the death of the deceased Duraisamy, by the petitioners as Son-in-law and grandson of the deceased. O.P.No.146 of 2008 has been filed against the death of the deceased Nandhini, by the petitioners as father and brother of the deceased.

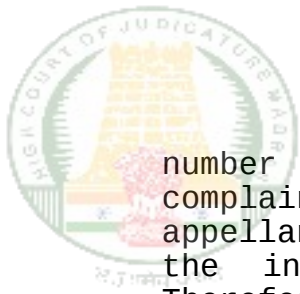
4. In the counter affidavit filed by the appellant/Transport Corporation, it is stated that driver of the bus Subramanian and the Conductor of the bus Ravichandran were examined by the Inspector of Police and the driver of the bus also gave his clear statement that the accident was not took place with his vehicle and after full enquiry made by the Inspector of Police, the case was closed as Mistake of fact. Therefore, the accident took place only due to the rash and negligent driving of the unknown vehicle. Hence, the appellant/Transport Corporation is not liable to pay any compensation to the petitioners/respondents herein.

5. On the side of the petitioners, P.W.1 and 2 were examined and Ex.A1 to A10 were marked. No witness was examined or any exhibit was marked on the side of the respondent. The Tribunal, based on the oral and documentary evidence Exs.P1 to P.10, has awarded a compensation of Rs.5,05,000/- to the petitioners in M.C.O.P.No.145 of 2008 and Rs.4,22,000/- to the petitioners in M.C.O.P.No.146 of 2008.

6. Dissatisfied with the award, dated 29.06.2012 passed by the Motor Accident Claims Tribunal in M.C.O.P.No.145 and 146 of 2008, Transport Corporation is before this Court only against the liability and not against quantum of compensation awarded by the tribunal. Therefore, appeal insofar as the quantum of compensation is confirmed.

7. Heard the learned counsel appearing for the appellant/Transport Corporation and perused the materials available on record.

8. According to the learned counsel appearing for the appellant/ Transport Corporation, Ex.A1 F.I.R., disclose the fact that an unknown Government bus hit against the deceased and subsequently, the F.I.R. has been referred to as 'Undetected'. Further, P.W.2 deposed before the Court that one unknown Government bus hit against the deceased and in the cross examination, he has stated that he saw the accident from an automobile shop which situated 100 meter away from the place of accident and hence, he could not have seen the registration



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number of the bus whereas he has stated the same in the complaint given to the police. According to the counsel for the appellant/Transport Corporation, the claimants have not proved the involvement of the appellant's bus in the accident. Therefore, the trial Court ought not to have fixed the liability on the appellant.

9. Tribunal on perusal of F.I.R. wherein it is referred as the bus involved in the accident is Yellow and Green colour belongs to the Transport Corporation. P.W.2 in his evidence has stated that the vehicle involved in the accident belongs to Transport Corporation which was proceeding from Tiruvannamalai to Bangalore. Further, the police have also taken the bus involved in the accident for investigation. There is no contra evidence produced before the tribunal by the appellant/Transport Corporation. No material was placed before the tribunal by the appellant transport Corporation to prove that unknown vehicle involved in the accident. Therefore, the tribunal has rightly come to the conclusion that the driver of the bus belongs to the appellant Transport Corporation is responsible for the accident and awarded compensation to the claimants.

10. For the reasons stated in preceding paragraph, this Court is of the view that the tribunal has rightly passed the award in favour of the claimant. Hence, there is no warrant to interfere with the award passed by the tribunal.

11. In fine, both the Civil Miscellaneous Appeals are dismissed. No costs.

Sd/-

Deputy Registrar (CS)

// True Copy //

Sub Assistant Registrar

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To

1.The I Additional District Judge,
(Motor Accidents Claims Tribunal), Salem.

2.The Section Officer,
V.R.Section,
Madras High Court, Chennai-104.

+1cc to Mr.D.Venkatachalam, Advocate SR.No.7821

Civil Miscellaneous Appeal
No.2563 & 2564 of 2013

KV(CO)
RVM(06/09/2021)