



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 24.02.2021

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THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.M.A(MD) No.980 of 2010

and

M.P.(MD)No.2 of 2010

The Managing Director,
Tamil Nadu State Transport Corporation
(Coimbatore) Limited,
No.37, Mettupalayam Road,
Coimbatore-43.

.. Appellant/3rd Respondent

vs.

1.K.Mani
2.Minor M.Santhosh
(2nd respondent declared as
major vide order dated 24.02.2021)

3.Minor M.Dharuinsh .. Respondents 1 to 3 /Petitioners
(Minor Respondent 3 is
represented by his father
and natural guardian K.Mani)

4.D.Manickam ..4th Respondent/1st Respondent

5.The New India Insurance Company ltd.,
Divisional Office,
East Coast Chamber I Floor,
No.92, G.N.Chetty Road,
T.Nagar,
Chennai-600 017. ..5th Respondent/2nd Respondent

Prayer: Civil Miscellaneous Appeal filed under Section 173 of
Motor Vehicles Act 1988, to set aside the judgment and decree
passed in M.C.O.P.No.716 of 2006, dated 25th Day of August 2009, on
the file of Motor Accident Claims Tribunal(District Judge) Karur.

For Appellant	: Mr.M.Prakash
For R1 to R3	: Mr.M.Karthikeya Venkatachalapathy
For R4	: No appearance
For R5	: Mr.J.S.Murali

J U D G M E N T

<https://hcservices.ecourts.gov.in/Hcservices/> This appeal is directed against the award passed by the Motor



Accident Claims Tribunal/District Judge, Karur in M.C.O.P.No.716 of 2006.

2. The facts in brief are that on 13.11.2006 one Maheswari and Lakshmi travelled as a passengers in the bus belongs to the appellant Transport Corporation bearing registration No.TN-33-N-1896 from Karur to Covai. At the time, a Tempo Van bearing registration No.TN-47-F-1854 which was coming from opposite direction in a rash and negligent manner and rammed the bus. In the accident, both the said Maheswari and Lakshmi sustained injuries and died on the spot. The legal heirs of the Maheswari filed a claim petition in M.C.O.P.No.716 of 2006. While M.C.O.P.No.31 of 2007 was filed by the legal heirs of the deceased Lakshmi, both the matters were taken up for hearing and joint trial was conducted and by a common judgment, the Tribunal held that the driver of the van and driver of the bus were responsible for the accident and also apportioned their negligence at 80% and 20%.

3. Challenging the said findings and the quantum of compensation, of Rs.6,66,500/- and Rs.3,19,000/- respectively, awarded by the Tribunal, the Transport Corporation filed these appeals in C.M.A(MD)Nos.980 and 981 of 2010.

4. The case of the appellant Transport Corporation was that the accident occurred only due to the negligence of the driver of the van and hence, no liability can be fixed on the transport corporation.

5. During trial, on behalf of the claimants, P.W.3 was examined as eye witness and on the side of the appellant, R.W.3- the conductor of the bus gave evidence in support the case of the appellant. FIR and rough sketch were marked as Ex.P1 and Ex.P2 and after analysing the evidence of P.W.1 and R.W.3 and Ex.P1 to Ex.P3, the Tribunal fixed 80% negligence on the driver of the van and fixed 20% negligence on the driver of the bus.

6. It is relevant to note that the appeal preferred against the award passed in M.C.O.P.No.31 of 2007 was settled before the Lok Adalat on 16.10.2012, in which, the appellant transport corporation has admitted their liability of 20% and paid the compensation and settled the award amount with the claimants. So, now the contention of the appellant that the entire liability has to be fixed on the driver of the Van cannot be sustained. Therefore, the findings on negligence is confirmed.

7. Insofar as quantum of compensation is concerned, the Tribunal, after analysing the evidence held that the deceased Maheswari died at the age of 30 years leaving behind her husband



and two minor children aged about 7 years and 8 years respectively, has awarded a total compensation of Rs.6,66,500/- against their claim of Rs.10,00,000/-. The income of the deceased was taken as Rs.4,000/- per month and by applying multiplier '17' quantified the amount of Rs.8,16,000/- and after deducting 1/3rd for her personal expenses held that the claimants are entitled to Rs.5,44,000/- for loss of income. The Tribunal has awarded a sum of Rs.10,000/- to the first claimant for loss of companion, Rs.50,000/- to the claimants 2 and 3 for loss of love and affection and care, Rs.2,500/- for transportation and Rs.10,000/- for funeral expenses. In total, the Tribunal has awarded a sum of Rs.6,66,500/- as compensation.

8. Though the learned counsel for the appellant Transport Corporation 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.The claim petition of the year 2006 and at that relevant point of time, the second and third claimants were minors and by now, they should have been become major. So, they are hereby declared as major and the Tribunal is hereby directed to disburse their share in the award.

10.In that view, the Civil Miscellaneous Appeal is dismissed, as devoid of merits. The appellant is directed to deposit the entire award amount, as apportioned by the Tribunal, 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 major claimants 1 & 2 are permitted to withdraw their share 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 third claimant in any one of the Nationalized bank in a Fixed Deposit initially for a period of three years and renewable thereafter, till the minor attains majority. The father of the minor claimant 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 (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



To

The District Judge,
Motor Accident Claims Tribunal,
Karur.

Copy to

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

+1 CC to Mr.M.KARTHIKEYA VENKITACHALAPATHY, Advocate (SR-7100[F]
dated 25/02/2021)

+1 CC to Mr.J.S.MURALI, Advocate (SR-7155[F] dated 25/02/2021)

JUDGMENT MADE IN
C.M.A(MD) No.980 of 2010
24.02.2021

KM(27.05.2021) 4P 6C