



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **23.12.2021**

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD)No.850 of 2021
and C.M.P. (MD)No.7889 of 2021

The General Manager,
The Tamil Nadu State Transport Corporation,
Madurai,
Dindigul.

... Appellant/2nd Respondent

Vs.

1.Jeya
2.Minor Priyadharashan
3.Minor Roshan
4.Ranjitham
5.Selvaraj

... Respondents 1 to 4/Petitioners

.. Respondent No.5/1st Respondent

(Minor Respondent 2&3 are rep. through
their mother and guardian of the 1st Respondent)
(Since R5 is the driver of the appellant Transport Corporation,
notice may be dispensed with as no claim against him)

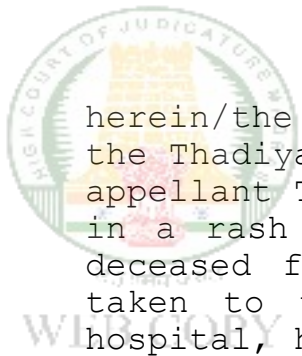
PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicle Act, against the judgment and decree dated 16.10.2019 passed in M.C.O.P.No.763 of 2016 on the file of the Motor Accident Claims Tribunal (Principal District Court), Dindigul.

For Appellant : Mr.K.Sudalayandi
For R1 - R4 : Mr.S.Mahesh Babu

JUDGMENT

The appellant/Tamil Nadu State Transport Corporation, the second respondent in M.C.O.P.No.763 of 2016 on the file of the Motor Accident Claims Tribunal (Principal District Court), Dindigul, has filed the present appeal. Before the Tribunal, the respondents 1 to 4/claimants have filed the claim petition under Section 166 of the Motor Vehicles Act, seeking compensation of Rs.18,00,000/- for the death of one Manikandan, in a road accident, which occurred on 14.06.2015.

2. It is a case of fatal accident, which took place on 14.06.2015 at about 7.15 p.m. According to the first respondent
<https://hcservices.ecourts.gov.in/hcservices/>



herein/the wife of the deceased, when her husband was standing near the Thadiyan Kudisai K.C.Patti Main Road, 3rd bend, the driver of the appellant Transport Corporation bus bearing Reg. No.TN 57 1392 came in a rash and negligent manner and hit against the deceased. The deceased fell down and sustained head injury. He was immediately taken to the Batlagundu Government Hospital. On the way to the hospital, he died. But in the First Information Report, it is stated that when the deceased was travelling in a motor cycle bearing Registration No. TN 57 W 7827 as pillion rider along with another pillion rider, the accident was happened. Totally 3 persons were travelling in a motor cycle.

3.The claimants have filed a petition in M.C.O.P.No.763 of 2016 on the file of the Motor Accident Claims Tribunal (Principal District Court), Dindigul, seeking compensation of Rs.18,00,000/-.

4.Before the Tribunal, on the side of the respondents 1 to 4 herein/claimants, three(3) witnesses were examined as P.W.1 to P.W.3 and marked six documents as Ex.P1 to Ex.P6. On the side of the appellant, three witnesses were examined as R.W.1 to R.W.2 and no documents were marked on the side of the appellant.

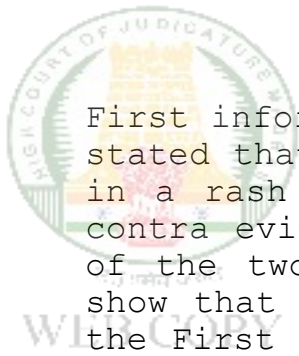
5.The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsels for the appellant and claimants and also on appreciating the evidences on record, directed the appellant/Transport Corporation to pay a sum of Rs.16,29,400/- as compensation. Against which, the appellant/Transport Corporation has preferred this appeal.

6.The learned counsel appearing for the appellant among other grounds, mainly contended that at the time of accident, three persons i.e the driver of the two wheeler, the deceased and another pillion rider were travelling. According to him, the Tribunal ought to have fixed contributory negligence on the driver of the two wheeler.

7. The learned counsel for the respondents 1 to 4/claimants would submit that the Tribunal has rightly awarded the compensation after analyzing the oral and documentary evidence and therefore, there is no need to interfere in that award.

8. Heard both sides and perused the materials available on record.

9. The respondents 1 to 4 have filed the Claim Petition for compensation for the death of the husband of the first claimant, who died on 14.06.2015 at 7.15 p.m. The First Information Report was registered against the driver of the bus and even as per the First Information Report, the driver of the bus came in a rash and negligent manner and hit the two wheeler in which the deceased was



First information Report, but in a Claim Petition the claimants have stated that while the deceased was standing in a road, the bus came in a rash and negligent manner and hit the deceased. There is no contra evidence to prove that only due to negligence of the driver of the two wheeler accident occurred and there is no evidence to show that three persons were travelling in the two wheeler. As per the First Information Report and on the witnesses's deposition, the claimants clearly proved that the accident took place only due rash and negligent driving of the driver of the Tamil Nadu State Transport Corporation bus. So the Tribunal has rightly fixed liability on the driver of the Tamil Nadu State Transport Corporation. This Court has no reason to interfere with the award of the Tribunal.

10. Accordingly, the judgment and decree dated 16.10.2019 passed in M.C.O.P.No.763 of 2016 on the file of the Motor Accident Claims Tribunal (Principal District Court), Dindigul, is confirmed. The appellant Transport Corporation is directed to deposit the award amount within a period of 8 weeks from the date of receipt of a copy of this order. After deposit, the first claimant entitled to withdraw the award amount as apportioned by the tribunal. The amount in regard to the respondents 2 and 3 shall be deposited in any nationalized bank till they attain majority.

11. In the result, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

CM

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1.The Motor Accident Claims Tribunal
(Principal District Court), Dindigul.



2. The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1 CC to M/s.K.SUDALAIYANDI, Advocate (SR-40326[F] dated 23/12/2021)

+1 CC to M/s.S.MAHESH BABU, Advocate (SR-40278[F] dated 23/12/2021)

C.M.A. (MD)No.850 of 2021 and

C.M.P. (MD)No.7889 of 2021

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