



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2021

CORAM:

**THE HONOURABLE MRS.JUSTICE S.ANANTHI**

CMA(MD)No.327 of 2019

and

CMP(MD)No.4073 of 2019

WEB COPY

The Managing Director,  
Tamil Nadu State Express Transport Corporation  
Pallavan Salai,  
Chennai - 600 002.

... Appellant/1<sup>st</sup> Respondent

**Vs.**

1.Sala

...1<sup>st</sup> Respondent/Petitioner

2.Rajavel

3.The General Manager,  
Sree Ram General Insurance Company limited,  
E-8, Sitapura, Ripco Industrial Area,  
Jaipur,  
Rajasthan State.

... 2<sup>nd</sup> & 3<sup>rd</sup> Respondents/  
2<sup>nd</sup> & 3<sup>rd</sup> Respondents

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the award and decree made in M.C.O.P.No.73 of 2015, dated 16.04.2018 on the file of the Motor Accidents Claims Tribunal/Sub Court, Vallioor.

|               |                                 |
|---------------|---------------------------------|
| For Appellant | :Mr.P.PRABHAKARAN, Advocate     |
| For R1        | :Mr.M.LAXMI MAHENDRAA, Advocate |
| For R2        | :No Appearance                  |
| For R3        | :Mr.V.SAKTHIVEL, Advocate       |

#### JUDGMENT

The appellant/Tamil Nadu State Express Transport Corporation filed this appeal against the award and Decree, dated 16.04.2018 in M.C.O.P.No.73 of 2015 on the file of the Motor Accident Claims Tribunal/Sub Court, Vallioor.

2.It is a case of fatal accident. On 11.02.2015 the deceased, who was working as a cleaner travelled in a lorry bearing Registration No.TN-28-P-3350 towards Chennai, a bus bearing Registration No.TN-01-N-4803 was proceeding towards Chennai in front of the lorry. At about 12.20 p.m. near Shekussain Pettai, the bus driven by its driver in a rash and negligent manner in the right side, without any signal suddenly turned to left side and again



turned to right side and dashed the front side of the lorry. Due to the said accident, the deceased sustained grievous injuries. Immediately, he was taken to Mundiapakkam Government Medical College Hospital, but he died on the way to the hospital.

3.The claimant has filed a petition in M.C.O.P.No.73 of 2015 on the file of the Motor Accidents Claims Tribunal/Sub Court, Vallioor, seeking compensation of Rs.20,00,000/-.

4.The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the claimants and the respondents and also on appreciating the evidences on record, held that the accident occurred only, due to the rash and negligent driving of the bus driver and directed the appellant herein to pay compensation of Rs.7,32,000/-. Against which, the appellant/ respondent has filed these present appeal to set aside the award of compensation passed by the Tribunal.

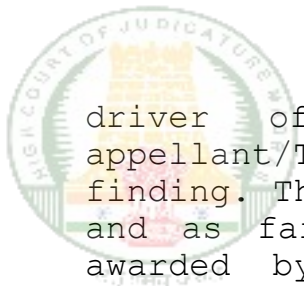
5.Heard the learned counsel for the appellant and the learned counsel appearing for the first and third respondents. No representation for the second respondent.

6.The learned counsel for the appellant contended that the lorry bearing Registration No.TN-28-P-3350 driven by its driver came in a rash and negligent manner without following the traffic rules and regulations and suddenly hit the appellant's bus on the backside and voluntarily caused the accident. Hence, the lorry driver was solely responsible for the accident. But Tribunal erroneously fixed the entire negligence on the part of the appellant Transport corporation and also awarded exorbitant amount towards compensation to the claimants.

7.The learned counsel appearing for the claimant contended that the Tribunal after considering all the aspects of the cases, fixed the negligence on the part of the driver of the bus and awarded just compensation and the same cannot be said to be on the higher side.

8.From the materials available on record, it is seen that F.I.R. was marked as Ex.A1. It clearly stated that the driver of the bus suddenly turned right without any signal and dashed in front of the lorry. The Motor Vehicle Report of the lorry and bus, which were marked as Ex.A2 and Ex.A3 show that the bus was damaged in the right side and the lorry was also damaged in front side. On the basis of the F.I.R. and Motor Vehicle Report, the Tribunal fixed liability on the appellant. There is no contra evidence to prove that the lorry came in a rash and negligent and tried to over take the bus and dashed the back side of the bus. So in all aspects, the Tribunal has rightly fixed the liability on the driver of the bus.

9.The Tribunal, after considering all the facts, held that the accident occurred only due to the rash and negligent driving of the



driver of the bus and rightly fixed liability on the appellant/Transport Corporation. There is no error in the said finding. The monthly income fixed by the tribunal is also reasonable and as far as quantum of compensation is concerned, the amount awarded by the Tribunal is not excessive.

WEB COPY

10. Considering all the materials on record in entirety, this court is of the view that there is no error to interfere with the award of the Tribunal.

11. In the result,

(i) The Civil Miscellaneous Appeals is dismissed.

(ii) The appellant /Tamil Nadu State Express Transport Corporation, is directed to deposit the compensation awarded by the Tribunal together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of M.C.O.P.No.73 of 2015 on the file of the Motor Accident Claims Tribunal/Sub Court, Vallioor within a period of four weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made, the claimant is entitled to withdraw the same, by filing necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

**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**

The Motor Accidents Claims Tribunal/Sub Court,  
Vallioor.

**Copy to:**

The Section Officer,  
VR Section,  
Madurai Bench of Madras High Court,  
Madurai. (2 Copies)



+1 cc to M/s.P.PRABHAKARAN, Advocate, SR.No.40148

+1 cc to M/s.V.SAKTHIVEL, Advocate, SR.No.40314

+1 cc to M/s.M.LAXMI MAHENDRAA, Advocate, SR.No.40341

**CMA (MD) No.327 of 2019**

**and**

**CMP (MD) No.4073 of 2019**

**Date:23.12.2021**

SA (14.02.2022) 4P 7c