



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2021

CORAM :

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THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD) .No.408 of 2019

and

C.M.P. (MD) No.4859 of 2019

The Managing Director,
Tamil Nadu Transport Corporation Ltd.,
Nagercoil. ...Appellant/2nd Respondent

Vs.

1.Gnana Sudha ...1st Respondent/Petitioner
2.Devaraj (R2-Givenup)
3.The Branch Manager,
United India Insurance Company Ltd.,
Xavier Building, II Floor,
PWD Road, Nagercoil ...2nd & 3rd Respondents /
1 & 3 Respondents

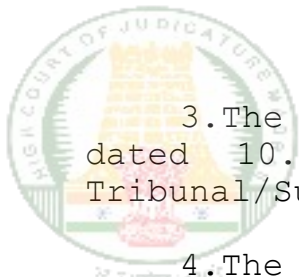
PRAYER : Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award and decree made in M.C.O.P.No.2 of 2009, dated 10.09.2012 on the file of the Motor Accident Claims Tribunal/Sub Court, Kuzhithurai.

For Appellant :Mr.P.Prabhakaran
For R1 & R2 :No Appearance
For R3 :Mr.J.S.Murali

JUDGMENT

The Civil Miscellaneous Appeal has been filed to set aside the award and decree made in M.C.O.P.No.2 of 2009, dated 10.09.2012 on the file of the Motor Accident Claims Tribunal/Sub Court, Kuzhithurai.

2.It is a case of accident, which took place on 27.11.2007, the deceased who was driving the Maruthi Zen Car, bearing Registration No.TN-74-F-3364 from Kottaram to Nagercoil, while coming near Mantharam Puthur, the bus bearing Registration No.TN-74-N-0441 came from opposite direction in a rash and negligent manner and dashed against the car. Due to the said accident, three persons were died.



3.The claimants have filed a petitions M.C.O.P.No.2 of 2009, dated 10.09.2012 on the file of the Motor Accident Claims Tribunal/Sub Court, Kuzhithurai, seeking compensation.

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 and directed the appellant herein to pay compensation. Against which, the appellant/second respondent has filed these present appeals 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 respondents and perused the materials available on record.

6.According to the learned counsel for the appellant, two vehicles came from the opposite direction and dashed with each other. So both the vehicles are responsible for the accident. But the Tribunal has fixed liability only on the appellant/Transport Corporation. The compensation awarded by the Tribunal is excessive.

7.From the materials available on record, it is seen that F.I.R. was registered against the driver of the bus and charge sheet has also been filed. The driver of the bus was evicted by the trial Court. So no other evidence, to fix the liability on the part of the driver of the Maruthi Zen Car. So in all aspects, the Tribunal rightly fixed the liability on the driver of the bus.

8.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.

9.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.

10.In the result,

(i)The Civil Miscellaneous Appeal is dismissed. No costs.

(ii)The appellant /Tamilnadu Transport Corporation Ltd., 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.2 of 2009 on the file of the Motor Accident Claims Tribunal/Sub Court, Kuzhithurai within a period of six weeks from

<https://hcmr.judges.gov.in/hcmr/ces> receipt of a copy of this order.



(iii) On such deposit being made, the claimants are entitled to withdraw the same, by filing necessary application before the Tribunal. Consequently, connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

vsd

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/Sub Court,
Kuzhithurai.

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

+1 CC to M/s.J.S.MURALI, Advocate (SR-36999[F] dated 02/12/2021)

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-36904[F] dated 01/12/2021)

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01.12.2021

TP (CO)
KB (09.02.2022) 3P 6C