

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation	31.03.2021
Date of Judgment	21.06.2021

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THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)Nos.972 and 973 of 2017
and
CMP(MD)Nos.10168 and 10169 of 2017

(1) CMA (MD) No. 972 of 2017:-

Tamil Nadu State Transport
Corporation Limited,
Through its Managing Director,
Office at Maruthapathy,
Managiri Road,
Karaikudi.

: Appellant/1st Respondent

Vs.

- 1.Archana : 1st Respondent/Claimant
2.Pathirakali
3.Royal Sundaram Alliance Insurance Company Limited,
Through its Branch Manager
Office at TVS Sons Ltd.,
Vannarapettai,
Tirunelveli.
4.Shriram General Insurance Company Limited,
Through its Branch Manager,
Office at E-9, EPIR, RICO Industrial Area,
Sitapura, Jaipur,
Rajasthan-302 922. : Respondents 2 to 4/R2 to R4

PRAYER:- Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the award passed by the Motor Accident Claims Tribunal (IV Additional District Court), Tirunelveli, made in MCOP No.56 of 2012, dated 05.08.2015.

(2) CMA (MD) No. 972 of 2017:-

Tamil Nadu State Transport
Corporation Limited,
Through its Managing Director,
Office at Maruthapathy,

<https://hcservices.ecourts.gov.in/hcservices/>



Managiri Road,
Karaikudi.

: Appellant/1st Respondent

Vs.

1.Uma Maheswari

: 1st Respondent/Claimant

2.Pathirakali

3.Royal Sundaram Alliance Insurance Company Limited,
Through its Branch Manager
Office at TVS Sons Ltd.,
Vannarapettai,
Tirunelveli.

4.Shriram General Insurance Company Limited,
Through its Branch Manager,
Office at E-9, EPIR, RICO Industrial Area,
Sitapura, Jaipur,
Rajasthan-302 922.

: Respondents 2 to 4/R2 to R4

PRAYER:- Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988 against the award passed by the Motor Accident Claims Tribunal (IV Additional District Court), Tirunelveli, made in MCOP No.58 of 2012, dated 05.08.2015.

For Appellant	: Mr.P.Prabhakaran
For 1 st Respondent	: Mr.K.Esakki
For 2 nd Respondent	: Mr.S.Sivakumar
For 3 rd Respondent	: No Appearance
For 4 th Respondent	: Mr.D.Sivaraman

COMON JUDGMENT

These Civil Miscellaneous Appeal have been filed challenging the common award passed by the Motor Accident Claims Tribunal (IV Additional District Court), Tirunelveli, in MCOP Nos.56 and 58 of 2012, dated 05.08.2015.

2.The short facts of the case is that on 30.07.2011 at about 4.00 pm, the claimants were travelling in a Maruti Omni TN-76-Y-4894 from Rameswaran to Alangulam and when the vehicle reaching near Vavadimunisamy Kovil Vilakku on the Eruvadi-Ethampadal ECR Road, at that time, the Transport Corporation Bus TN-63-N-0912 came in the rash and negligent manner in the wrong side and dashed against the Maruti Omni. In that accident, the claimants Archana and Uma Maheswari were sustained multiple injuries along with some others and they were taken to Meenakshi Mission Hospital, Madurai and admitted as inpatient on 30.07.2011 and discharged on 07.08.2011. The claimant in MCOP No.56 of 2012 filed a claim petition seeking compensation of Rs.20,00,000/- for the injuries sustained in the accident, whereas the claimant in MCOP No.58 of 2012 filed a claim petition seeking compensation of Rs.8,00,000/- for the injuries



sustained in the accident.

3. In the counter filed by the respondents before the tribunal, they disputed the manner of accident and their liability to pay compensation.

4. Before the tribunal, on the side of the claimants, 3 witnesses were examined and marked 16 documents. On the side of the respondents, 1 witness was examined and no document was marked.

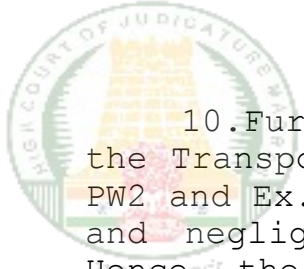
5. The Tribunal, on consideration of oral and documentary evidence adduced by the parties, came to the conclusion that the driver of the Transport Corporation Bus caused the accident and awarded compensation of Rs.5,40,500/- in respect of MCOP No.56 of 2012 and Rs.2,02,500/- in respect of MCOP No.58 of 2012 together with interest @ 7.5% p.a.

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

7. The dispute is with regard to negligence and quantum. The learned counsel appearing for the appellant/1st respondent submitted that the accident occurred only due to the rash and negligent driving of the driver of Maruti Omni Car and not due to the rash and negligent driving of the driver of the Transport Corporation Bus and hence, the entire negligence cannot be fastened on the driver of the Transport Corporation Bus and prays that the Civil Miscellaneous Appeals have to be allowed.

8. On the other hand, the learned counsel appearing for the claimants argued that the accident occurred only due to the rash and negligent driving of the Transport Corporation Bus Driver and not due to the driving of the Maruti Omni Car Driver and prays that the Civil Miscellaneous Appeals have to be dismissed.

9. In this case, the claimants in both the cases were examined as PW1 and PW2. PW1 and PW2 deposed that only due to the rash and negligent driving of the Transport Corporation Bus Driver, the accident occurred. In respect of the accident, the criminal case was registered as against the driver of the Transport Corporation Bus. It is to be noted here that the driver of the Transport Corporation Bus has not given any complaint to the police stating that only due to the negligence on the part of the driver of the Maruti Omni Car, the accident occurred. Further, he has not sent any petition to the superior police officials, objecting registration of the FIR against him. Hence, from the evidence available on record, it reveals that the accident occurred only due to the rash and negligent driving of the Transport Corporation Bus Driver.



10. Further, Charge Sheet (Ex.P5) filed against the driver of the Transport Corporation Bus. Hence, from the evidence of PW1 and PW2 and Ex.P5, it reveals that the accident occurred due to the rash and negligent driving of the Transport Corporation Bus Driver. Hence, the tribunal has correctly come to the conclusion that the accident occurred due to the rash and negligent driving of the Transport Corporation Bus Driver. As regards quantum of compensation, the compensation awarded by the tribunal is fair and reasonable and require no interference of this court.

11. In the result, both Civil Miscellaneous Appeals are dismissed, confirming the common award of the tribunal. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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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/
IV Additional District Court, Tirunelveli.

2. The Record Keeper, (2C)
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+2 CC to M/s.K.ESAKKI, Advocate (SR-19725[F],19726 dated 21/06/2021

+2 CC to M/s.D.SIVARAMAN, Advocate (SR-19699[F],19700 dated 21/06/2021)

+1 CC to M/s.M.E.ILANGO, Advocate (SR-19971[F] dated 23/06/2021)

CMA (MD) Nos.972 and 973 of 2017
21.06.2021

KMK (CO)

KB (27.08.2021) 4P 9C

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