

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.09.2022

CORAM:

THE HONOURABLE MR.JUSTICE A.A. NAKKIRAN

C.M.A.(MD)No.1108 of 2009 and
MP(MD).No.2 of 2009

M/s. Tamil Nadu State Transport Corporation Limited,
(Madurai Division – 4),
by its Managing Director,
Periyamilaguparai,
Trichirappalli.

... Appellant/Respondent

Vs.

Arumugam

... Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the Judgement and Decree passed in MCOP.No.2096 of 2002, dated 11.07.2006, on the file of the Motor Accident Claims Tribunal / I Additional District Court (PCR), Trichirappalli.

For Appellant : Mr. M.Prakash

For Respondent : Mr.K.Govinda rajan

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JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant / Transport Corporation against the Judgement and Decree passed in MCOP.No.2096 of 2002, dated 11.07.2006 on the file of the Motor Accident Claims Tribunal / I Additional District Court (PCR), Trichirappalli.

2. The respondent / claimant filed the said claim petition in MCOP.No.2096 of 2002, on the file of the Motor Accident Claims Tribunal, I Additional District Court (PCR), Trichirappalli, claiming a sum of Rs.3,00,000/- as compensation, for the death of one Deivanai @ Nagavalli.

3. The facts of the case is that on 08.05.1999 at about 5.45 am, the deceased and one another person was standing on the southern side of Salem – Tiruchirappalli main road at Kodiyampalayam. At that time, the appellant's vehicle bearing Regn.No. TN 45 N 0210 was driven by its driver in a rash and negligent manner and caused the death of the

respondent's wife viz., Deivanai @ Nagavalli. The legal heir of the deceased, who is the respondent herein filed the claim petition.

4. The Tribunal, considering the pleadings, oral and documentary evidence, awarded a total sum of Rs.2,87,000/- as compensation.

5. Aggrieved by the said Award, the appellant / Transport Corporation has filed the present Civil Miscellaneous Appeal.

6. The learned counsel appearing for the appellant submitted that on the date of accident, the vehicle was driven by one Balakrishnan not by Nagarajan. But, the charge sheet has been filed against one Nagarajan. He would further submit that the said accident is alleged one and there is no accident as such on that day. He would further submit that Tribunal failed to consider the evidence of RW.1 – Nagarajan and Ex.R1- Trip Sheet to prove the alleged accident and prayed for allowing this appeal.

7. Per contra, learned counsel appearing for the respondent submitted that because of the driver of the appellant's Transport Corporation bus only the said accident had occurred and the learned Motor Accidents Claims Tribunal Judge also observed that the above accident happened due to the negligence on the part of the driver of the appellant's vehicle. He would further submit that the First Information Report has also been registered against the appellant driver of the appellant Transport Corporation bus alone and hence, the appeal may be dismissed.

8. I have heard the learned counsel appearing for parties and perused all the materials available on record.

9. On a perusal of the counter statement filed by the appellant before the Tribunal it is seen that the appellant never agitated with regard to the name of the driver of the vehicle and they have also not putforth any question to the witnesses in this regard. A perusal of the records would show that PW.2- Meenakshi, who was examined as one of the witnesses stated in her evidence that the driver of the appellant Transport Corporation only drove the vehicle in a rash and negligent manner and

caused accident. The appellant has not put forth any specific question to PW.2 and they have not examined any of the witnesses to prove the above said contention. The First Information Report was registered against one Nagarajan and that the charge sheet has also been filed against the said Nagarajan. The learned Motor Accidents Claims Tribunal Judge has rightly observed that the appellant / Transport Corporation has not proved by examining any of the evidences or producing documents that the above said vehicle was driven by Balakrishnan and not by Nagarajan at the time of accident. Hence, the learned Judge came to the conclusion only after appreciating all the materials on record in proper perspective and hence, there is no error warranting interference by this Court for such finding.

10. In the result, the Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal is confirmed. The appellant / Transport Corporation is directed to deposit the entire award amount to the credit of M.C.O.P.No.2096 of 2002, on the file of the Motor Accident Claims Tribunal / I Additional District Court (PCR), Trichirappalli, less the amount already deposited, if any, along with accrued interest at the rate

of 7.5% per annum from the date of claim petition till the date of deposit and costs, within a period of eight weeks from the date of receipt of a copy of this Judgment.

11. On such deposit being made, the respondent / claimant is entitled to withdraw the entire amount, with interest by making necessary application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

07.09.2022

Index :Yes/No
Internet :Yes/No
trp

To

1. The Motor Accident Claims Tribunal / Chief Judicial Magistrate,
Dindigul.

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

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A.A. NAKKIRAN, J.,

trp

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