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CMA.Nos.3435, 3445 & 3446 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgment Reserved on : 09.11.2023

Judgment Delivered on : 21.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE R. SUBRAMANIAN

and

THE HONOURABLE MR. JUSTICE N. SENTHILKUMAR

CMA.Nos. 3435, 3445 and 3446 of 2019
and

CMP.Nos. 20148, 20182, 20188 of 2019

M/s. United India Insurance Company Limited,
Having Office at No. 14/1-77B, Salem Main Road
Pudhuchampalli, Raman Nagar Post,
Mettur Dam, Salem District-636 403)
Having Divisional Office No.
1TP-Hub No.104-A, Peramanoor Main Road,
Near Four Roads,
Salem-7.

.. Appellant

[In all three CMAs]

Versus

1.Vennila
2.Minor Priyadarshini
3.Minor Dharun
4.Thangammal
5.P. Nallathambi
6.The Managing Director
Tamil Nadu State Transport Corporation
No.12, Ramakrishna Road,
Salem-7.

...Respondents

[In CMA.No.3435/2019]



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- 1.Amutha
- 2.Minor Swetha
- 3.Minor Sathya
- 4.Poonga @ Poongavanam
- 5.Indra
- 6.P. Nallathambi
- 7.The Managing Director
Tamil Nadu State Transport Corporation
No.12, Ramakrishna Road,
Salem-7.

...Respondents

[In CMA.No.3445/2019]

- 1.Kala
- 2.Minor Dharsnini
- 3.Lilly
- 4.Jessy
- 5.Antonyamma
- 6.Mary
- 7.P.Nallathambi
- 8.The Managing Director
Tamil Nadu State Transport Corporation
No.12, Ramakrishna Road,
Salem-7.

...Respondents

[In CMA.No.3446/2019]

Common Prayer:

Civil Miscellaneous Appeals filed against the award and decree dated 11.10.2018 made in MCOP.Nos.956, 955 and 1572 of 2016 on the file of the Motor Accident Claims Tribunal, Special District Judge, Salem, respectively.



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For Appellant in all three Appeals : Mr.S. Arunkumar

For Respondents : Mr.R. Navaneethakrishnan,
For RR1 to 4 in CMA.No. 3435/2019

: Mr.T. Ananthasekar,
For RR1 to 5 in CMA.No.3445/2019
For RR1 to 6 in CMA.No.3446/2019

: Mr.D. Raghu
For R6 in CMA.No. 3435/2019
For R7 in CMA.No. 3445/2019
For R8 in CMA.No. 3446/2019

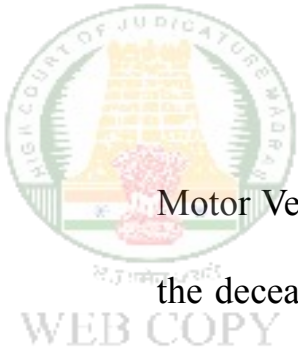
: No Appearance
For R5 in CMA.No. 3435/2019
For R6 in CMA.No. 3445/2019
For R7 in CMA.No. 3446/2019

COMMON JUDGMENT

N. SENTHILKUMAR, J.

These Civil Miscellaneous Appeals arise out of connected proceedings before the Motor Accidents Claims Tribunal in M.C.O.P.Nos.1572, 955 and 956 of 2016 and therefore, they are disposed of by way of this Common Judgment.

2. The above original petitions were filed under Section 166 of the



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Motor Vehicles Act, seeking for payment of compensation to the dependents of the deceased Louis alias Dineshkumar in M.C.O.P. No. 955 of 2016 for a sum of Rs.20,00,000/-, the dependents of the deceased Venkatesh in M.C.O.P.No. 956 of 2016, claiming compensation for a sum of Rs. 20,00,000/- and the legal heirs of the deceased Kumar in MCOP.No. 1572 of 2016, claiming compensation for a sum of Rs.70,00,000/-.

3. On 26.03.2016, when the deceased Louis @ Dineshkumar and Venkatesh were returning from Trichy to Salem, after worshipping at Velanganni Church in Tamil Nadu State Transport Corporation bus, bearing Registration No. TN-30-N-1117, the driver of the lorry bearing Registration No. TN-28-R-9451 has parked it on the middle of the road without any safety signal or indicator near Gajjalnaickanpatti Vijaya Mahal, the driver of the bus hit the back side of the lorry. Due to the impact, the deceased Louis @ Dinesh Kumar and Venkatesh, who were the passengers of the Transport Corporation bus and the deceased Kumar, who was a conductor of the bus suffered injuries and died. Therefore, the claimants in MCOP.Nos.955 and 956 of 2016 are claiming compensation a sum of Rs.20,00,000/- each and the claimants in MCOP.No. 1572 of 2016 are claiming compensation of a sum of Rs.70,00,000/-



4. The Tribunal has awarded a sum of Rs.16,21,200/- to the claimants in MCOP.No.955 of 2016, Rs.15,81,200/- to the claimants in MCOP.No.956 of 2016 and Rs.30,66,000/- in MCOP.No.1572 of 2016. Aggrieved by the said Award of the Tribunal, the appellant/Insurance Company has filed the above Civil Miscellaneous Appeals. The Tribunal failed to note the contributory negligence on the part of the driver of the Tamil Nadu State Transport Corporation bus and the Tribunal erred in calculating the compensation towards “loss of love and affection”, which is against the judgment of the Hon’ble Supreme Court in the case of the National Insurance Co. Ltd v. Pranay Sethi reported in 2017 (16) SCC 680.

5. During trial, the Tribunal has framed the following issues in MCOP.Nos.955 and 956 of 2016:-

- (i) Whether the accident occurred due to the rash and negligent driving of driver of lorry bearing Registration No. TN-28-R-9461?
- (ii) Whether the petitioners in MCOP.No. 955 of 2016 are entitled to get compensation from the respondents? If so from whom, to what amount?
- (iii) Whether the petitioners in MCOP.No.956 of 2016 are entitled to get compensation from the respondents? If so from whom, to what amount?

6. During trial, the Tribunal has framed the following issues in



MCOP.No. 1572 of 2016 :-

- (i) Whether the accident occurred due to the rash and negligent driving of driver of lorry bearing Registration No. TN-28-R-9451?
- (ii) Whether the petitioners are entitled to get compensation from the respondents? If so from whom, to what amount?

7. The 1st claimant, namely, Kala in M.C.O.P.No. 955 of 2016, is the wife of the deceased Louis @ Dinesh Kumar and the claimants 2 to 7 are the daughter, mother and sisters of the deceased. According to the claimants, the deceased was aged about 38 years, he was working as a painter and earning a sum of Rs. 20,000/- per month.

8. In M.C.O.P.No. 956 of 2016, the 1st claimant, namely, Amutha, is the wife of the deceased Venkatesh and the claimants 2 to 5 are the daughters, mother and sister of the deceased Venkatesh. According to the claimants, the deceased Venkatesh who was aged about 35 years at the time of accident was a painter by profession and he was earning a sum of Rs. 20,000/- per month.

9. In MCOP.No.1572 of 2016, the 1st claimant, namely, Vennila is the wife of the deceased Kumar and the claimants 2 to 4 are the children and mother of the deceased Kumar and he was working as a Conductor of the bus



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which met with the accident under the sixth respondent/Transport Corporation.

The second and third respondents are the minor children of the first respondent herein and the respondents 4 & 5 are the parents of the deceased. The respondents are claiming the compensation a sum of Rs.70,00,000/-.

10. According to the claimants before the Tribunal, since the accident had taken place only due to the rash and negligent act of the driver of the lorry bearing Registration No. TN-28-R-9451 in parking the lorry in the carriage way, the respondents 1 and 2 being the owners and the insurer are jointly and severally liable to pay compensation of Rs. 20,00,000/- each to the claimants and the legal heirs of the deceased Kumar in MCOP.No. 1572 of 2016, are claiming compensation in a sum of Rs.70,00,000/- before the Tribunal respectively.

11. The appellant vehemently contended that, before the Tribunal, the driver of the lorry followed the rules and regulations by showing the signal/indicators, as the lorry was parked on the middle of the road, because diesel got drained and the lorry broke down. Therefore, the driver of the lorry had put up the indicators/signals and kept the triangle shape reflector so that the other vehicles plying behind the lorry, could avoid any untoward accidents,



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thereby, the driver of the lorry followed all the rules and regulations and hence, the driver of the lorry is not responsible for the accident that had occurred on 23.06.2016. The income of the deceased persons in MCOP.Nos. 955, 956 and 1572 of 2016 was also disputed.

12. The contention of the Transport Corporation is that on 23.06.2016, the bus started at 2.15 a.m. and it was plying from Tiruchy to Salem. The bus, while nearing towards Salem at about 5.30 a.m., at Gajjalnaickenpatti Vijaya Mahal, the driver of the lorry bearing Registration No. TN-28-R-9451, having parked on the main road, without any sign or signal, the driver of the lorry suddenly turned right and came in reverse and hit the bus on the left side. Therefore, the passengers who were seated on the left side and the Conductor of the bus got injured and died on the spot.

13. Before the Tribunal, a memo was filed by the claimants in M.C.O.P.Nos. 955 and 956 of 2016 to record the evidence jointly and MCOP.No. 1572 of 2016 was tried separately. On the side of the claimants, PW1 to PW4 have been examined and Exs.P1 to P.26 were marked. On the side of the respondents, three witnesses have been examined as RW1 to RW3 and Ex.R1 was marked.



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14. The compensation awarded by the Tribunal in MCOP.No.955 of 2016 is as follows:-

Sl. No.	Heads under which the amount is awarded	Amount Awarded by the Tribunal
1	Loss of Dependency (Rs.7840x12x15)	Rs.14,11,200.00
2	Loss of love and affection (Rs.20,000x7)	Rs.1,40,000.00
3	Loss of Consortium	Rs.40,000.00
4	Funeral Expenses	Rs.15,000.00
5	Loss of Estate	Rs.15,000.00
	Total	Rs.1,621,200.00

(ii) The compensation awarded by the Tribunal in MCOP.No.956 of 2016 is as follows:-

Sl. No.	Heads under which the amount is awarded	Amount Awarded by the Tribunal
1	Loss of Dependency (Rs.7840x12x15)	Rs.14,11,200.00
2	Loss of love and affection (Rs.20,000x5)	Rs.1,00,000.00
3	Loss of Consortium	Rs.40,000.00
4	Funeral Expenses	Rs.15,000.00
5	Loss of Estate	Rs.15,000.00



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Total

Rs.15,81,200.00

(iii) The compensation awarded by the Tribunal in MCOP.No.1572 of 2016 is as follows:-

Sl. No.	Heads under which the amount is awarded	Amount Awarded by the Tribunal
1	Loss of Dependency (Rs.16200x12x15)	Rs.29,16,000.00
2	Loss of love and affection (Rs.20,000x4)	Rs.80,000.00
3	Loss of Consortium	Rs.40,000.00
4	Funeral Expenses	Rs.15,000.00
5	Loss of Estate	Rs.15,000.00
	Total	Rs.30,66,000.00

15. The learned counsel for the appellant/Insurance Company contended that during the cross-examination of PW1 to PW3, who were travelling in the bus which was involved in the accident, had categorically stated that they did not know as to how the accident took place. One M.Parameshwaran, who was examined as PW4, has deposed that he was riding a motor-cycle at the place of occurrence, where the lorry was parked on the road, where the bus came from behind at a speed of about 40 km/hr hit the parked lorry from behind and caused the accident.

16. Ex.P1 is the First Information Report that was registered against the driver of the lorry. One Soundarrajan-RW1, who is the driver of the lorry,



deposed that the lorry was stopped due to break-down and for want of diesel.

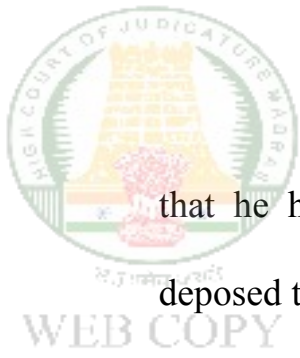
Therefore, he had switched on the indicators/signal so that the vehicles coming behind could be alerted to avoid any accident.

17. A.Kumar-RW3, the driver of the 3rd respondent's bus had categorically stated that it was only due to the negligence on the part of the lorry driver, the said accident had taken place.

18. The Sub-Inspector of Police (RW2), one Alexander, attached to Chinnamalloor Police Station, had laid the charge sheet against RW1, the driver of the lorry, alleging that only due to his negligence, the accident had occurred and a document was marked viz., the rough sketch, as Ex.X1, which would clearly show that the lorry was parked on the middle of the road.

19. The learned counsel for the appellant contended that the evidence of the driver of the bus belonging to the TNSTC (RW3) had stated that the lorry was parked on the road and that the driver of the bus has not preferred any complaint.

20. The driver of the bus, PW3, in his cross-examination, has stated



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that he has seen parked the lorry which was 10 metres ahead and he has deposited that he was following the lorry for a distance of 30 kilo metres.

21. In the counter affidavit filed by the TNSTC, they have taken a stand that the lorry was parked on the middle of the road without sign or signal and the driver of the lorry turned towards right, suddenly, the lorry came in the reverse direction and hit the bus on the left side. The evidence of PW3, the driver of TNSTC bus, and the evidence of the driver of the lorry who was examined and RW1, demonstrates as to how the accident would have occurred.

22. The learned counsel for the appellant further contended that in his evidence as PW1, the driver of the lorry, had categorically stated that the lorry was stopped as it broke down for want of diesel and the driver of the lorry has also put up the sign/indicator to avert any accident. If RW3 has been vigilant while driving the TNSTC bus, he could have averted the accident. He would further argue that there was carelessness on the part of RW3 which has contributed to the accident. The carelessness of RW3 has also been exhibited in his deposition where he admits that he was following the lorry for nearly 30 kilometres.

23. The learned counsel for the appellant has also drawn our attention



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to the Award of the Tribunal and stated tat the Tribunal has not taken note of the contributory negligence on the part of the TNSTC bus and has fastened the entire liability on the appellant herein.

24. Per contra, the learned counsel appearing for the claimants vehemently contended that it could not be believed that the lorry was stranded on the middle of the road for want of diesel. The claim that the lorry which carries sand and was fully loaded coming from Namakkal to Trichy for transporting of sand, stopped for want of diesel, is highly improbable and the explanation cannot be accepted.

25. The point for consideration before us is as to whether there was contributory negligence on the part of the driver of the 6th respondent/Transport Corporation who drove the bus.

From the evidence available on record, Ex.X1, the rough sketch, clearly shows that the lorry was parked on the middle of the road in the National Highways. Similarly, the driver of the lorry, RW1 had deposed that the lorry was stopped on the road since the lorry had run out of diesel. He has also categorically stated that he had switched on the indicators/signals to ensure that the vehicles coming from behind could see the lorry and avoid any accident.



26. During the trial in MCOP.Nos.955 & 956 of 2016, on the side of the claimants PW1 to PW4 were examined, Ex.P1 to Ex.P26 were marked and also Ex.X1, which included the copy of the FIR, Observation Mahazar, Rough Sketch, Charge Sheet were marked along with Postmortem Certificates (3 Nos), Driving licence and Motor Vehicle Report (2 Nos). On the side of the respondents, RW1 to RW3 were examined and no documents were marked. In MCOP.No. 1752 of 2016, on the side of the claimants, PW1 and PW2 were examined, Ex.P1 to P13 have been marked and Ex.X1 to Ex.X5, a copy of the FIR, Observation Mahazar, Rough Sketch, Charge Sheet were marked along with Postmortem Certificates (3 Nos), Driving licence and Motor Vehicle Report (2 Nos) have also been marked. On the side of the respondents, RW1 to RW3 were examined and no documents were marked.

27. The driver of the Transport Corporation bus (RW3) has deposed before the Tribunal that he saw the lorry 10 feet away where it was parked and he has also further deposed that he has followed the lorry for a distance of 30 kilo metres and he was driving the bus in a speed of 40 kilometres and he has also further deposed that he did not see whether the lorry driver had put up the signal or indicators.



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28. The Transport Corporation has filed its counter stating that the lorry did not put up any signal or indicator to avert any accident and the further statement in the counter is that the lorry suddenly turned on the right side and came in the reverse direction and hit the bus on the left side and caused the accident, due to which, the Conductor of the bus and two other passengers died.

29. We have considered the submissions learned counsel for the appellant/Insurance Company and the learned counsel for the respondents and perused the materials placed on record.

30. The primary contention of the appellant is that RW3, the driver of the Transport Corporation has categorically deposed before the Tribunal that he was coming behind the lorry for 30 kilometres which was involved in the accident and he has driven the bus in a speed of 40 kilometres and the driver of the bus had categorically stated that the lorry was stopped on the road just 10 feet ahead of the bus.

31. The second contention raised by the appellant is that in the counter affidavit filed by the Transport Corporation has stated that the lorry which was



reverse direction. If the driver of the bus had driven the bus carefully, he could have avoided the accident in which two passengers died, namely, Louis @ Dinesh Kumar and Venkatesh were traveling as passengers and the Conductor of the bus, namely, Kumar also died.

32. The third contention raised by the appellant is that the evidence of RW1, the driver of the lorry which was involved in the accident, had deposed that the lorry was stopped due to breakdown and diesel in the lorry was drained. Therefore, he has taken all precautionary steps by putting up sign/indicator and green leaves on the road so that the vehicles which were coming behind, saw the parked lorry well in advance.

33. PW1 to PW3 in their Chief-Examination have stated that the lorry driver did not put up any sign/indicator to show that the lorry being stopped due to which the accident had taken place. The said accident was only because of the negligence on the part of the lorry driver RW1. However, in the cross-examination of PW1 to PW3, it is stated that they did not see as to how the accident had taken place and PW4 was also examined as an eye witness to the accident, had not seen how the accident has occurred.



34. Though the appellant has come up with the contention that the bus belonging to the Transport Corporation has contributed for the said accident, the evidence of RW1 and the rough sketch Ex.X1 clearly show that the lorry was parked on the middle of the road.

35. In the Counter affidavit that was filed by the third respondent/Transport Corporation in MCOP.No. 956 of 2016 before the Tribunal, it has been stated in Paragraph No.7 as follows:-

7. “7. On 25.03.2016, the bus TN-30-N-1117 was running from Salem to Trichy on 26.03.2016 the bus was taken at 2.15 am from Trichy and was proceeding towards Salem at about 5.30 while coming near Vijaya Mahal at Gajjalnaickenpatty a san lorry was parked on the main road without any sign or signal the driver turned to the right and suddenly the lorry came in the reverse and hit the bus on the left side. The passengers who were seated in the left side were injured”.

36. The Transport Corporation is a public undertaking, which is run by the Revenue generated by plying the buses across the State under various categories. It is the bounden duty of the Transport Corporation to verify and examine the nature and cause of accident, whenever its bus is involved. The

narration in Paragraph No.7 to the effect that a lorry which was stopped on the



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involved in the accident. If anyone, attached to the Transport Corporation had examined the nature of accident, they would have come to the conclusion in the manner in which the accident had happened. It would have definitely avoided the predicament now faced by the corporation where the evidence is contrary to the pleadings.

37. Whenever an accident involving a bus belonging to the Transport Corporation takes place, the officials in charge of the concerned Division should conduct a spot inspection and examine the nature of accident and they should give a follow up with regard to the Police Investigation and the claims made before the Tribunal. There may be different versions made by the claimants but the Police Investigation should be followed by the Transport Corporation at the time of filing of the counter. The counter filed by the Transport Corporation should explain the nature of accident which by itself should help the Tribunal to come to the correct conclusion. Any ambiguity in the counter filed by the Transport Corporation will cause great detriment to it before the Tribunal. The case on hand, is one such, where the passengers who are the claimants in MCOP.Nos. 955, 956 and 1572 of 2016 depose one version, the counter filed by the Transport Corporation contains one version and the Police give a third version. The driver of the lorry who has been arrayed as an accused and the driver of the bus who was examined as RW3 give a different



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accused and the driver of the bus who was examined as RW3 give a different version. This only demonstrates that the legal persons attached to the Transport Corporation have not examined the nature of accident and that reflects in the counter filed by the Transport Corporation.

38. When the bus attached to the Transport Corporation is involved in the accident and when the Tribunal finds the negligence/contributory negligence on the part of the driver of the Transport Corporation bus, it is the tax payers money that is being paid to the claimants. The Transport Corporation do not insure their vehicles. This is one such classic case which demonstrates absolute carelessness on the part of the person, who has filed the counter before the Tribunal, without ascertaining the cause of the accident, nature of accident and without perusing the FIR, Rough Sketch and the statement of RW3 during the police investigation. This kind of counter being filed before the Tribunal only shows that the Transport Corporation is filing the counter for the sake of filing a counter without ascertaining the facts.

39. We deprecate the practice of counters being filed before the Tribunal by the Transport Corporation without ascertaining the correct facts. It is the duty of the Managing Director of the Transport Corporation to sensitize



the accident from the statement of the driver/conductor, passengers if any, FIR and Police Investigation. The case on hand, has two versions from the Transport Corporation, one theory stated in the counter filed before the Tribunal and the other theory by the driver who deposed as RW3.

40. The evidence of RW1 and RW3 clearly shows that the driver of the bus belonging to the Transport Corporation, has contributed to the accident. Thus, we see the appellant/Insurance Company has made out a case as against the driver of the bus for contributing to the accident due to his negligence.

41. The learned counsel for the appellant has relied upon a judgment in **United India Insurance Company Limited v. A. Semmalar**, reported in **2019 (1) TNMAC 22 (DB)**, to which one of us (*R.Subramanian, J*) was a party, where in the contributory negligence was fixed at 25% on the vehicle which came from behind and dashed against a parked vehicle. The relevant Paragraph Nos. 19 to 22 are extracted hereunder:-

“19. Considering the entire evidence that has been placed before us, we are of the considered opinion that the entire negligence cannot be fastened only on the driver of the lorry. No doubt, the lorry was parked in the no-parking area that too on a Highway, but, we have also found that the driver of the Qualis Car was also driving the car at a very high speed violating the speed restrictions on the Highway. We are, therefore, of the considered view that the driver of the car had also contributed to the accident. We are, therefore, of the opinion that the negligence has to be apportioned between the lorry driver and the car



green leaves to show that the lorry has been stopped on the road and it was because of the carelessness of RW3, the accident had occurred and the contributory negligence was not considered by the Tribunal.

43. The 3rd Respondent/Transport Corporation before the Tribunal, being a public carrier, must be vigilant and in the event of accident, irrespective of whether it is a fatal accident or not, the onus is on the 3rd Respondent/Transport Corporation to pay compensation to the victims, from the Revenue generated by the Corporation.

44. We find that the bus belonging to the 3rd Respondent had contributed to the accident, that has taken place on 26.03.2016, since the driver of the 3rd Respondent was not vigilant to notice that a lorry was stopped on the middle of the road, and his negligence therefore has contributed to the accident.

45. Thus, we see that the appellant/Insurance Company has made out a case that the 3rd respondent's bus has contributed to the accident that had occurred. We fix the quantum of negligence on the driver of the Bus at 25%.

46. The learned counsel for the appellant contended that the Tribunal has awarded a sum of Rs.20,000x7=Rs.1,40,000/- in MCOP.No.955 of 2016,



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has awarded a sum of Rs.20,000x7=Rs.1,40,000/- in MCOP.No.955 of 2016, Rs.20,000x5=Rs.1,00,000/- in MCOP.No. 956 of 2016 and Rs.20,000x4=Rs.80,000/- in MCOP.No. 1572 of 2016 under the head of “loss of love and affection” which is contrary to the judgment of the Hon'ble Supreme Court in *National Insurance Company Ltd -Vs- Pranay Sethi reported in 2017(16)SCC680*. As regards, the claimants in MCOP.No. 955 of 2016 (CMA 3446 of 2019), the Tribunal has taken the age of the deceased as “38” and he was earning a sum of Rs.20,000/- per month. The Tribunal has fixed the notional income of the deceased at Rs.7,000/-. It deducted 1/5th towards personal expenses as the deceased had 7 dependants.

The compensation was arrived at as follows:-

Monthly Income : Rs.7,000 + Rs.2,800 (40% future prospects)
Total loss of Income : Rs.9,800 x 12 x 16 = Rs.18,81,600/-
Total loss of Dependency : Rs.18,81,600 – Rs.3,76,320 (1/5)
: Rs.15,05,280/-

<u>Loss of Dependency:</u> (Rs.18,81,600 – Rs.3,76,320)	Rs.15,05,280.00
Loss of Consortium (Rs.40,000x7)	Rs.2,80,000.00
Funeral Expenses Rs.15,000 + 10%	Rs.16,500.00
Loss of Estate Rs.15,000 +10%	Rs.16,500.00
Total	Rs.18,18,280.00
Less:25% contributory negligence to be paid by the TNSTC/3 rd respondent	Rs.4,54,570.00
75% to be paid by the appellant :	Rs.13,63,710.00



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appellant/Insurance Company and a sum of Rs.4,54,570/- payable by the Tamil Nadu State Transport Corporation to the credit of MCOP.No.955, of 2016.

47. The first claimant, the wife of the deceased is entitled to a sum of Rs.8,00,000/-, the second claimant is entitled to a sum of Rs.5,00,000/-, the third claimant is entitled to a sum of Rs.1,18,280/-, the claimants 4 to 7 are entitled to a sum of Rs.1,00,000/- each. The claimants are entitled to interest at the rate of 7.5% per annum from the date of filing of the petition till the date of deposit. The share of the second claimant, who is a minor, shall be deposited in any Nationalized Bank till the minor becomes major in a cumulative interest scheme. Upon attaining majority the second claimant will be entitled to withdraw her share of the compensation.

48. In MCOP.No. 956 of 2016 (CMA.No. 3445 of 2019), the Tribunal has taken the age of the deceased as 35. The Tribunal has fixed the income of the deceased at Rs.7,000/- notionally and adopted the multiplier of “15”. Since the claimants are 5 in number the personal expenses of the deceased was taken as 1/4. The future prospects should be taken at 40%.

$$= \text{Rs.}7,000 \times 12 \times 16 + 40\% = \text{Rs.}18,81,000 - 4,70,250/- = 14,10,750/-$$

Loss of Dependency	Rs.14,10,750.00
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Loss of Dependency	Rs.14,10,750.00
Loss of Consortium & Love and affection (Rs.40,000 x 5)	Rs.2,00,000.00
Funeral Expenses Rs.15000+10%	Rs.16500.00
Loss of Estate Rs.15000+10%	Rs.16,500.00
Total	Rs.16,43,750.00
Less:25% towards contributory negligence to be paid by TNSTC/3 rd respondent	Rs.4,10,937,50
75% to be paid by the appellant :	Rs.12,32,812.50

Of the above compensation a sum of Rs.**12,32,812.50/-** is payable by the appellant/Insurance Company and a sum of Rs.**4,10,937,50/-** is payable by the Tamil Nadu State Transport Corporation to the credit of MCOP.No.956, of 2016.

49. The first claimant, the wife of the deceased, is entitled to a sum of Rs.6,00,000/-, the 2nd and 3rd claimants are entitled to a sum of Rs.3,50,000/- each, the 4th claimant is entitled to a sum of Rs.1,43,750/-, the 5th claimant is entitled to a sum of Rs.2,00,000/-. The claimants are entitled to interest at the rate of 7.5% per annum from the date of filing of the petition till the date of deposit. On such deposit the major claimants will be entitled to with draw the same. The share of the minor claimants 2 and 3 along with proportionate interest shall be kept in fixed deposit with cumulative interest till they attain



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50. In MCOP.No. 1572 of 2016 (CMA3435 of 2019), the Tribunal has taken the age of the deceased as “37” and after considering Ex.X4, the last pay drawn of the deceased was Rs.14,400/-, and he was having permanent job. Adding 50% of the same towards future prospects, it arrived at the monthly income at Rs.21,600/- [Rs.14,400+Rs.7,200]. The petitioners are 4 in number. After deducting 1/5 of the same towards personal and living expenses, the monthly loss of dependency comes to Rs.16,200/-. It applied the multiplier of 15.

$$= \text{Rs.}16,200 \times 12 \times 15 = \text{Rs.}29,16,000/-.$$

Loss of Dependency (+ Rs.5,83,200)	Rs.29,16,000.00
Loss of Consortium and Love and affection (Rs.40,000x4)	Rs.1,60,000.00
Funeral Expenses: Rs.15000+ 10%	Rs.16,500.00
Loss of Estate Rs.15000 + 10%	Rs.16,500.00
Total	Rs.31,09,000.00
Less : 25% contributory negligence to be paid by TNSTC/3 rd respondent	Rs.7,77,250.00
75% to be paid by the Appellant :	Rs.23,31,750.00

Of the above compensation a sum of Rs.23,31,750/- is payable by the appellant/Insurance Company and a sum of Rs.7,77,250/- is payable by the Tamil Nadu State Transport Corporation to the Credit of MCOP.No.1572 of 2016.



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51. The first claimant, the wife of the deceased, is entitled to a sum of Rs.12,00,000/-, the 2nd and 3rd claimants are entitled to a sum of Rs.8,00,000/- each, the 4th claimant is entitled to a sum of Rs.3,09,000/-. The claimants are entitled to interest at the rate of 7.5% p.a. from the date of filing of the petition till the date of deposit. The share of the minor claimants 2 and 3 along with proportionate interest shall be kept in fixed deposit with cumulative interest till they attain majority. They shall be entitled to with draw the same on attaining majority.

52. As it is seen in the buses run by the Tamil Nadu State Transport Corporation, the victims who are injured or the claimants/legal heirs of the deceased persons, where the Tamil Nadu State Transport Corporation is responsible for the accident or where there is contributory negligence on the part of the Tamil Nadu Transport Corporation. It is the tax payers money that is being paid as compensation. We take note of the fact that Tamil Nadu State Transport Corporations are running at loss.

53. We therefore give the following directions/suggestions to the Secretary, Tamil Nadu Transport Corporation:-



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(ii) The meeting shall discuss the reason for loss of Revenue due to payment of compensation.

(iii) There shall be a meeting of drivers and conductors explaining the modern technology regarding the road safety. This meeting shall be conducted every four months.

(iv) The Transport Commissioner shall ensure that the conditions of the road either it is a state Highway or National Highway is good in coordination with the State Government and Central Government. Endeavour should be made to ensure that the roads are laid properly with necessary sign boards and proper laying of the speed-breaker with reflectors and other safety equipments.

(v) The Transport Secretary shall issue suitable directions to all the Divisional Head Office to oversee the counters filed before the tribunal in all the cases involving Tamil Nadu South Transport Corporation bus to verify with the nature of the accident, assess the spot and examine the cause of the accident, the Police Report before filing counters in claim petitions..

(vii) The Secretary to the Transport Department and the Commissioner of Road Safety shall conduct a periodical meetings for every three months and send a report to the respective Government. Based on the report, the Government shall take appropriate decisions to overcome the shortcomings to curb the fatal accidents. The accidents happen on day to day basis and which has become the order



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the shortcomings to curb the fatal accidents. The accidents happen on day to day basis and which has become the order of the day cannot be lost sight by the Government.

54. We note that these accidents which occur, ultimately result in loss of limb or loss of life, which is a matter of grave concern and it is alarming situation that there is not even a single day passes without the accidents relating to death and major fatalities.

55. With the above observations, all the Civil Miscellaneous Appeals are partly allowed.

(a) The award of the Tribunal is modified as Rs.16,21,200 to Rs.18,18,280/- in MCOP.No. 955/2016; from Rs.15,81,200 to Rs.16,43,750/- in MCOP.No.956/2016 and from Rs.30,66,000 to Rs.31,09,000/-in MCOP.No.1572/2016;

(b) The appellant/Insurance Company is directed to deposit the enhanced/modified award amount to the credit of MCOP.Nos.955, 956 and 1572 of 2016 on the file of the Motor Accident Claims Tribunal, Special District Judge, Salem, along with interest @ 7.5% p.a. from the date of claim petitions till the date of deposit, and costs as awarded by the Tribunal, less, the amount if any already deposited within a period of 12 weeks from the date of receipt of a copy of this common judgment;



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the interest, costs, etc., after adjusting the amount, if any already withdrawn by the Claimants and credit the actual amount in line with the judgment of a Division Bench of this Court in CMA.No. 428 of 2016, dated 11.03.2016, reported in 2016 (2) LW 561;

(d) The appellant/Insurance Company is permitted to withdraw the excess amount, if any already deposited by them before the Tribunal and the TNSTC shall deposit 25% towards its share as directed by us along with 7.5% interest;

(e) As far as the share of the minor claimants is concerned, the same shall be deposited in any one of the Nationalized Bank in a cumulative interest bearing fixed deposit till the minors attain majority.

(f) The claimants shall pay the court fee payable on the enhanced compensation. However, there shall be no order as to costs. Consequently, connected Civil Miscellaneous Petitions are closed.

[R.S.M., J] [N.S., J]
21.12.2023

Index: Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
MSM



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Neutral Citation: Yes/No
MSM

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To

1. The Special District Judge,
Motor Accident Claims Tribunal, Salem.
2. The Secretary,
Tamil Nadu State Transport Corporation
Fort St. George, Chennai-600 009.
3. The Commissioner,
Road Safety, Chennai.
4. Thiru. Virendar Sambyal
Regional Officer,
National Highways Authority of India,
Regional Office – Chennai
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