



C.M.A.No.388 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MR. JUSTICE D.BHARATHACHAKRAVARTHY**

C.M.A.No.388 of 2021

and

C.M.P.No.2571 of 2021

The Managing Director,
M/s. TamilNadu State Transport
Corporation Limited,
Bharathipuram,
Dharmapuri

... Appellant

Vs.

1. Jothi

2. Minor Priyadharshini,
D/o Late Radhakrishnan
(Minor rep. by their
NF/Mother Jothi)

3. Valliammal,
W/o Late Venkatasamy

...Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 31.01.2020 made in M.C.O.P.No.591 of 2019 on the file of the Motor Accident Claims Tribunal/ Special District Court, Krishnagiri.



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For Appellants : Mr.K.Ponraj
for D.Raghu

For Respondents : L.Munusamy

JUDGMENT

This Civil Miscellaneous Appeal is directed against the judgment and decree of the Motor Accident Claims Tribunal, Krishnagiri, dated 31.01.2020 in M.C.O.P.No.591/2019, aggrieved by the fixation of liability itself.

2. Heard Mr.K.Ponraj, learned counsel appearing on behalf of the appellant.

3. Learned counsel for the appellant, taking this Court to the manner in which the accident had happened, would submit that the stretch relevant to the accident is the accident prone zone and all the drivers have already been instructed to drive slowly and cautiously. Without following the caution, the deceased drove the vehicle in a high speed which resulted in the accident and the Tribunal did not give any rebate for the contributory negligence. Therefore, he would submit that the appeal is to be allowed.

4. Per contra, the learned counsel appearing on behalf of the respondents would submit that the evidence of RW1, a witness examined



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on behalf of the appellant/respondent itself would support the case of the respondent/petitioner and therefore, the appeal has to be dismissed.

5. We have considered the rival submissions made on either side and perused the material records of the case.

6. The only point arises for consideration in this appeal is that whether the deceased drove the vehicle in a rash and negligent manner and it was the sole cause of the accident.

7. Perusal of the records shows that actually when the deceased was driving the bus near the speed breaker, there was break down, which resulted in the driver losing control of the bus, which resulted in head injuries to the deceased and succumbed to the head injuries. Contrary case of the appellant herein is that the rash and negligent driving of the deceased himself. In order to prove the same, they examined the conductor as RW1. However, it is seen that the conductor had also deposed in the lines of the case of the petitioner and had not supported their case. Therefore, when there is no evidence on record to support the case of the appellant regarding the rash and negligent driving of the deceased, the Appeal has to fail. Accordingly, the Civil Miscellaneous Appeal fails and the same stands dismissed.



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8. It is stated that 50% of the award amount has been deposited.

The balance 50% along with accrued interest is directed to be deposited by the appellant within a period of eight weeks from the date of receipt of a copy of this order. It goes without saying that the 1st respondent/claimant (wife) and the 3rd respondent/claimant(mother) will be entitled to withdraw the entire sum as apportioned by the Tribunal and 1st respondent/claimant will also be entitled to withdraw the accrued interest once in three months in respect of the minor share. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

(J.N.B,J.) (D.B.C, J.)
15.06.2023

Index : Yes / No
Internet : Yes
vsi

To

The Motor Accidents Claims Tribunal,
/ Special District Court,
Krishnagiri..

J. NISHA BANU, J.
and



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D.BHARATHA CHAKRAVARTHY,J.

vsi

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