



C.M.A.No.1904 of 2020

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

**C.M.A.No.1904 of 2020**

**and**

**C.M.P.No.14087 of 2020**

M/s.Tamil Nadu State Transport Corporation Ltd.,  
Kumbakonam (Division),  
New Railway Station Road,  
Kumbakonam.

...Appellant

Vs.

1.Nagajothi  
2.Minor Narmatha  
3.Minor Sinthu  
4.Minor Swetha  
5.Minor Kanishkar  
(Minors are rep. By their mother 1<sup>st</sup> respondent Nagajothi)  
6.Govindharaj  
7.Govindhammal

...Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 18.02.2020 made in M.C.O.P.No.818 of 2016 on the file of the Motor Accident Claims Tribunal / Principal District Judge, Perambalur.



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For Appellant : Mr.D.Raghu

For Respondents : Mr.T.Gopinath

## **J U D G M E N T**

(Judgment of the Court was made by R.SUBRAMANIAN, J.)

The appeal is by the State Transport Corporation, aggrieved by the award of a sum of Rs.20,86,000/- for the death of one Gunalan in a road accident that occurred on 27.05.2016 at about 2.45 p.m.

2.According to the claimants, who are wife, children and parents of the deceased Gunalan, when the said Gunalan was riding a two wheeler along with one Nithyaraj as a pillion rider, the bus belonging to the respondent Corporation bearing Registration No.TN-68-N-0239 driven by its driver in a rash and negligent manner came in the opposite direction and dashed against the two wheeler. As a result of the accident, both the rider as well as the pillion rider suffered fatal injuries and died on the spot. A case in Crime No.152 of 2016 under Section 304-A of IPC was registered against the driver of the bus in Manalmedu Police Station. Claiming that the



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deceased was working as an Electrician and earning a sum of Rs.25,000/- per month, the claimants sought for a compensation of Rs.30,00,000/-.

3.The Corporation resisted the claim contending that the accident did not occur in the manner suggested by the claimants. It was the rider of the motor cycle, who was responsible for the accident. The income of the claimant was stated to be exaggerated and quantum of compensation was also categorized as excessive.

4.Before the Tribunal, the 1<sup>st</sup> respondent / 1<sup>st</sup> claimant was examined as P.W.1, the claimant in the connected OP was examined as P.W.2 and one Dinesh an eye-witness was examined as P.W.3. Exs.P1 to P7 were marked. On the side of the Corporation, the driver of the bus was examined as R.W.1. The Tribunal upon assessment of the evidence concluded that the accident occurred due to rash and negligent driving of the bus. The Tribunal took into consideration the fact that the driver of the bus had not made any complaint to the police as well as the fact that the First Information Report was lodged against the driver of the bus. It



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categorised the evidence of the driver as intersted testimony and concluded that the negligence was on the part of the driver of the bus.

5.On the quantum, the Tribunal took the monthly income of the deceased as Rs.12,000/-, since there was no evidence in respect of the income as asserted by the claimants. The Tribunal adopted an increase of 40% towards future prospects, deducted 20% towards his personal expenses and arrived a sum of Rs.20,16,000/- as total loss of dependency. It also awarded a sum of Rs.40,000/- towards loss of consortium, Rs.15,000/- towards loss of estate and Rs.15,000/- towards funeral expenses. In all, the Tribunal arrived at a total compensation of Rs.20,86,000/-. Aggrieved, the Corporation is on appeal.

6.We have heard Mr.D.Raghu, learned counsel for the Corporation and Mr.T.Gopinath, learned counsel for the claimants.

7.While the learned counsel for the Corporation would contend that the Tribunal was not right in disbelieving the evidence of R.W.1 / driver



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of the bus, Mr.T.Gopinath, learned counsel for the claimants would submit that the driver of the bus had not even chosen to lodge a complaint against the rider of the two wheeler. He would also point out that the First Information Report was lodged by a third party and therefore, it would form basic evidence for the manner in which the accident took place.

8.We find force in the contention of the learned counsel for the respondents. If the driver of the bus claims negligence on the part of the two wheeler, he should have lodged a complaint with the police. In the absence of any such complaint we do not think that the Tribunal could be faulted for disbelieving his evidence. We therefore, confirm the conclusions of the Tribunal on the question of negligence.

9. Passing on to the quantum, we find that the compensation determined is very reasonable, considering the age of the deceased and his profession. The Tribunal has taken only Rs.12,000/- per month as notional income which is just and proper. We do not see any ground to interfere with the quantum of compensation as awarded by the Tribunal.



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10. We are also informed that the connected appeal in C.M.A.No.1959 of 2020, in which the challenge was to the compensation awarded to the pillion rider in the very same accident has been dismissed by this Court on 04.01.2021. Hence, this Civil Miscellaneous Appeal fails and it is accordingly, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(R.S.M.,J.) (S.S.K.,J.)  
05.01.2023

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Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order



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To:-

The Motor Accident Claims Tribunal,  
Principal District Court,  
Perambalur.



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**and**  
**SATHI KUMAR SUKUMARA KURUP, J.**

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