



C.M.A.(MD).No.418 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD).No.418 of 2023

and

C.M.P.(MD).No.5081 of 2023

The General Manager,
Tamil Nadu State Transport Corporation Limited,
Bypass Road,
Madurai.

... Appellant

Vs.

1.Muthulakshmi
2.Priya
3.Sivakumar

... Respondents

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 05.10.2021 which made in M.C.O.P.No.1934 of 2018 on the file of the Motor Accident Claims Tribunal, District and Sessions Judge, Communal Clash Cases Court, Madurai.

For Appellant : Mr.K.A.Thirumalaiappan

For Respondents : Mr.S.Ramakrishnan



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J U D G M E N T

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Challenging the compensation awarded by the Motor Accident Claims Tribunal, District and Sessions Judge, Communal Clash Cases Court, Madurai in M.C.O.P.No.1934 of 2018, dated 05.10.2021, on the ground of liability, the present appeal came to be filed.

2. The brief facts leading to the filing of this appeal are as follows:

On 18.02.2018, at about 7.25 hours, when the deceased Periyakaruppan riding his two wheeler bearing Registration No.TN 58 A 7556 in Chekanoorai – Sholavandhan Main Road, near Melakkal, from South to North, the driver of the respondent Corporation bus drove the bus bearing Registration No.TN 58 N 1189 came from North to South direction in a rash and negligent manner and dashed against the two wheeler. As a result, he has sustained multiple injuries and immediately rushed to the hospital and died on 21.02.2018. Thereafter, a case in Crime No.23 of 2018 has been registered against the driver of the offending vehicle. At the time of accident, the deceased was earning a sum of Rs.25,000/- and he was doing a business. Hence, the legal heirs of the deceased filed a petition claiming compensation before the Motor Accident Claims Tribunal. It is the contention of the respondent Corporation that the deceased was not able to control himself and hit against the pedestrian and fell down and



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the deceased was not hit by the driver of the bus belonging to the respondent.

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3. Before the Tribunal, on the side of the petitioners, P.Ws.1 and 2 were examined and Exs.P1 to P12 were marked and on the side of the respondent, R.Ws.1 and 2 were examined and Exs.R1 to R4 were marked.

4. Based on the evidence of P.W.1, the Tribunal has found that the driver of the offending vehicle drove the bus in a rash and negligent manner and caused the accident and awarded a sum of Rs.7,79,112/- as compensation in the following manner:

S. No	Description	Amount awarded by the Tribunal
1.	Loss of pecuniary benefits	Rs.6,29,112/-
2.	Loss of Estate	Rs.15,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Consortium	Rs.1,20,000/-
	Total	Rs.7,79,112/-.

Challenging the same, the present appeal has been filed.

5. The only challenge made in this appeal is with regard to the negligence. In the F.I.R., the name of the driver was wrongly mentioned as



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Vijayakumar instead of Mahadevan. On perusal of the records, it is found that he was on leave on that particular day and thereafter, one Mahadevan was impleaded and that itself clearly show that the accident is not occurred in the manner stated by the petitioner. Therefore, disputed the manner of accident.

6. On perusal of the records, it appears that the deceased was hit by the bus and immediately he was rushed to the hospital on the same day and the F.I.R. came to be filed on the very next day morning by the son of the deceased. On perusal of the F.I.R. itself indicate that he has given a complaint in the name of the driver, on the basis of the statement given by some other persons, who travelled in the bus. Therefore, merely because the complaint is not given properly in the name of the driver it cannot be stated that there is no such accident took place. On investigation, the police proceeded against the driver, who drove the vehicle and the final report also filed against him. The final report filed before the Tribunal clearly indicate that the bus was also subjected to the inspection by the Motor Vehicle Inspector. Therefore, merely on the basis of some mistake crept in as to the name of the driver it cannot be concluded that no such accident took place, whereas the evidence of P.W.2 eyewitness clearly show that the accident took place only due to the rash and negligent driving of the bus driver.



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7. In such a view of the matter, I do not find any merit in this appeal.

Hence, the Civil Miscellaneous Appeal is dismissed. The appellant/Transport Corporation is directed to deposit the entire award amount within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the respondents/claimants are permitted to withdraw their share as apportioned by the Tribunal. No costs. Consequently, the connected Miscellaneous Petition is closed.

24.04.2023

akv

To

The Motor Accident Claims Tribunal,
District and Sessions Judge,
Communal Clash Cases Court,
Madurai.



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N.SATHISH KUMAR,J.

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