



C.M.A.No.2459 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 29.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2459 of 2019
and C.M.P.Nos.11316 of 2019 and 17994 of 2021

National Insurance co. Ltd.,
Branch III, 185/1, Meyyanur Road,
Opp. to ARRS Theatre,
Salem - 636 004.

.. Appellant

Vs.

1.Rajeswari
2.Ramya Priya
3.Keerthika
4.Yusuf Basha

.. Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree dated 11.07.2018 made in M.C.O.P.No.329 of 2017 on the file of the Motor Accident Claims Tribunal and Principal District Judge, Dharmapuri.

For Appellant	:	Mr.S.Vadivel
For Respondents	:	Mr.M.Selvam for R1 to R3 Mr.V.Sekar for R4

J U D G M E N T

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The Insurance company is the appellant herein, has filed this appeal against the award and decree dated 11.07.2018 made in M.C.O.P.No.329 of 2017 on the file of the Motor Accident Claims Tribunal and Principal District Judge, Dharmapuri.

2. It is the case of the claimants before the tribunal that on 13.03.2017, when the deceased was working as a driver in Dharmapuri District Co-operative Sugar Mills, Palacode and when he was on duty, he accompanied with one B.Madhavan who is working as a clerk in the Sugar Mills, to attend Auditing Office Work at Salem. The deceased drove the Mahendra Bolero Car bearing reg. No.TN-29-H-6294 belongs to the Sugar Mills. The deceased was driving the vehicle slowly and carefully from west to East. While thus proceeding in Paupparapatti-Dharmapuri Main Road at Old Dharmapuri Junction road, at about 10.00 am, the Bus bearing Regn.No.TN-29-AP-5618, belongs to the 1st respondent was driven by its driver in a very rash and negligent manner from south direction and dashed against the front right side portion of the deceased vehicle with great impact and toppled the vehicle. Due to the said



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accident, the deceased sustained multiple fatal injuries and died on the way to hospital and the said Madhavan also sustained grievous injuries. The deceased was aged about 58 years at the time of accident and earning a sum of Rs.30,000/- per month. The accident occurred only due to the rash and negligence driving of the driver of the bus. The legal heirs of the deceased filed a Claim Petition before the tribunal, claiming compensation of Rs.35,00,000/- under various heads.

3. During the trial before the Tribunal, on the side of the claimants, there were three witnesses examined as PW1 to P.W3 and marked 18 documents as Exs.P1 to P18. On the side of the insurance company, one witness was examined as R.W1 and R.W.2 and one document was marked as Ex.R1.

4. The Tribunal, considering the pleadings, oral and documentary evidence, allowed the petition in part and awarded a sum of Rs.17,11,136/- as compensation to the claimants payable by the petitioner and 4th respondent jointly and severally. Questioning the quantum and liability, the



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insurance company/appellant herein has filed this appeal before this Court.

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5.Learned counsel for the appellant submitted that as per the Ex.R1/Renewal of Permit of the Bus TN-29-AB-5618 driven by the driver of the bus belongs to the 4th respondent, the said vehicle is a transport Public vehicle plying at the route Hogenakkal to Thiruputhur via Dharmapuri. He further submitted that the Bus is not supposed to be run in the occurrence place route and at the relevant time, the bus was plied in a different route other than the route given in the permit. Hence, the driver of the bus had violated the permit condition and the petitioner is not liable to pay any compensation to the claimants. Thereby, the Tribunal had failed to consider the violated terms and conditions of the policy. Hence, he prays for allowing the appeal.

6. Learned counsel for the 4th respondent would submit that at the time of accident, since railway bridge work was going on, the District Authority changed the bus fly route. Hence, it is not the violation of the Policy conditions. Moreover, the 4th respondent is having valid Insurance

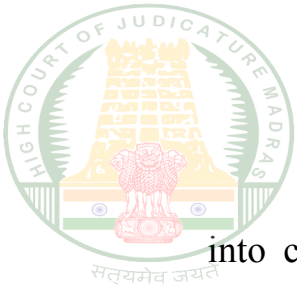


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Policy. Hence, the Trial Court has rightly fastened the liability on the owner of the bus and the Insurance Company, the same does not warrant interference by this Court.

7. Heard the learned counsel for the appellant and the learned counsel for the respondents and this Court has perused the materials available on record carefully.

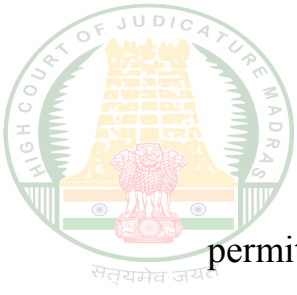
8. The facts in the present case are not in dispute. On perusal of the Ex.R1, there is a valid permit for the bus. Since the District Authority had changed the bus fly route due to railway bridge work, the driver of the bus proceeded towards Dharmapuri Town instead of bypass road. Due to rash and negligent driving of the driver of the bus, the deceased sustained fatal injuries and died on 13.03.2017. The tribunal, based on the proof affidavit that the deceased was aged about 58 years at the time of accident and was earning not less than Rs.20863/- per month by working as a Driver, had fixed the income at Rs.20863/- per month and calculated a sum of Rs.1,82,904/- as annual income of the deceased. Further, the tribunal taking



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into consideration the number of claimants and applying the appropriate multiplier based on the age of the deceased, arrived at a sum of Rs.16,46,136/- as Loss of income and the same is in order. The compensation awarded under other heads also not excess. The entire compensation awarded at Rs.17,11,136/- is proper and does not warrant interference of this Court. It is pertinent to note that the driver of the bus is having valid insurance policy, driving license and permit. Hence, the Trial Court rightly fastened the liability on the insurance company and directed the appellant and the 4th respondent to jointly and severally pay the compensation to the claimants.

9. In view of the discussion made in the preceding paragraphs, the Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal is confirmed. The appellant insurance company and the 4th respondent are jointly and severally directed to deposit the entire amount awarded by the Tribunal along with interest at 7.5%, less the amount already deposited if any, within a period of four(4) weeks from the date of receipt of a copy of this judgment. On such deposit, the claimants are



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permitted to withdraw the compensation along with interest and costs as per the apportionments fixed by the tribunal, by filing necessary applications before the Tribunal. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs. Consequently connected miscellaneous petitions are closed.

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msv

Index : Yes

Speaking Order : Yes

To
The Motor Accident Claims Tribunal
and Principal District Judge, Dharmapuri.



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M.DHANDAPANI,J.

msv

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