



C.M.A.No.2197 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2197 of 2021

And

C.M.P.No.12154 of 2021

National Insurance Company Limited
Mettupalayam Branch,
R.V.Building, (1st Floor),
157, Karamadai Road,
Mettupalayam,
Coimbatore – 641 301.

... Appellant

Vs.

1.P.Palanisamy
2.P.Madathi
3.B.Sheik Musthafa
4.B.Suresh Kumar
5.P.Durairaj*

6.The Managing Director,*
Tamil Nadu State Transport Corporation,
Coimbatore Division,
No.37, MTP Road,
Coimbatore – 641 043.

(*amended as per I.A.No.560/2018,
dated 10.01.2019)

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor
Vehicles Act, 1988, against the award dated 12.12.2019 made in



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M.C.O.P.No.268 of 2017, on the file of the Motor Accidents Claims Tribunal (V Additional District Judge), Coimbatore.

For Appellant : Mr.D.Bhaskaran

For Respondents : Mr.K.Varadha Kamaraj for R1 and R2
for M/s.S.B.Viswanathan
R3 – No Appearance
R4 & R5 – NDW
vide order dated 10.12.24
Mr.A.Sundara Vadhanam for R6

J U D G M E N T

The third respondent before the Motor Accidents Claims Tribunal is the appellant herein. This appeal has been filed against the judgment and decree dated 12.12.2019 passed by the Motor Accidents Claims Tribunal, (V Additional District Judge), Coimbatore, in M.C.O.P.No.268 of 2017.

2.The learned counsel appearing for the appellant submitted that the respondents 1 and 2 are the parents of the deceased Vijay and they filed claim petition before the Motor Accidents Claims Tribunal, claiming compensation of Rs.20 Lakhs alleging that on 27.10.2016 at about 3.45 p.m., the deceased Vijay travelled as a pillion rider in the motorcycle bearing Registration No.TN 37 CQ 0766 driven by the third



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respondent in Valparai to Coimbatore Road, after crossing Attakatti, Kadambarai, near 16th Hair-pin Bend. At that time, the Government Bus bearing Registration No.TN 38 N 2100, came in the opposite side and the third respondent suddenly stopped the motorcycle in a negligent manner and the deceased fell down and the Government Bus ran over the deceased, due to which, the deceased died on the spot. After adjudication, the Tribunal awarded a sum of Rs.14,70,800/- as compensation to the claimants along with interest at 7.5% p.a. from the date of petition till the date of deposit with proportionate costs and directed the appellant to deposit the amount.

3.The learned counsel appearing for the appellant further submitted that F.I.R. was registered against the fifth respondent/driver of the bus owned by the sixth respondent Transport Corporation, however, after investigation, the fifth respondent was exonerated and charge sheet was filed as against the rider of the two wheeler insured with the appellant and subsequently the case ended in acquittal. Hence the Tribunal fastening the entire negligence as against the rider of the motorcycle insured with the appellant, is not sustainable one.



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4.Per contra, the learned counsel appearing for the sixth respondent submitted that P.W.2 is the eye witness to the occurrence and P.W.2 has clearly deposed that the motorcycle was driven by the third respondent in a negligent manner and when it was near the 16th Hair-pin Bend, the Government Bus came in the opposite side and hence the third respondent suddenly stopped the motorcycle and the deceased fell down and the Government Bus ran over the deceased. Though the third respondent made complaint before the law enforcing agency as against the driver of the bus belonging to the sixth respondent, the law enforcing agency after investigation, filed charge sheet as against the third respondent and hence the Tribunal fastened the entire liability as against the appellant.

5.The learned counsel appearing for the respondents 1 and 2 reiterated the submissions made by the learned counsel appearing for the sixth respondent.

6.Heard the arguments advanced on either side and perused the materials available on record.



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7.The accident and the manner in which the accident happened are not disputed. Inorder to prove the negligence aspect, the first claimant examined himself as P.W.1 and also examined P.W.2 – eye witness and P.W.2 has clearly deposed that the motorcycle was driven by the third respondent in a negligent manner and when it was near the 16th Hair-pin Bend, the Government Bus came in the opposite side and hence the third respondent suddenly stopped the motorcycle and the deceased fell down and the Government Bus ran over the deceased and to disprove the same, the appellant has not examined any independent eye witness. Though the third respondent made complaint before the law enforcing agency as against the driver of the bus belonging to the sixth respondent, the law enforcing agency after investigation, filed charge sheet as against the third respondent and hence the Tribunal fastened the entire liability as against the appellant.

8.Insofar as the quantum of compensation is concerned, the Tribunal after considering all the factual aspects, awarded compensation which is just and reasonable and the same warrants no interference.



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M.DHANDAPANI,J.
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9.The civil miscellaneous appeal is dismissed. The judgment and decree dated 12.12.2019 passed by the Motor Accidents Claims Tribunal, (V Additional District Judge), Coimbatore, in M.C.O.P.No.268 of 2017, is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

16.12.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal,
(V Additional District Judge),
Coimbatore.

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