



CMA.No.216 of 2023
and C.M.P.No.1697 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

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and
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General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited, Periya Melakuparai,
Trichy.

... Appellant

vs.

1. Tamizhmani
2. Dharanidharan (Minor)
3. Udhayanila (Minor)
4. Sabarishwaran (Minor)

... Respondents

(Respondents 2 to 4 are minors represented by their mother Tamizhmani,
first respondent)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, 1988 against the decree and judgment dated
06.05.2022 in M.C.O.P.No.143 of 2017 on the file of the Motor Accident
Claims Tribunal, Principal District Court, Ariyalur.

For Appellant : Ms.M.Rohini
for Mr.C.Senapathi

For Respondents : Mr.P.Vijayakumar
for Mr.M.Rajagopalakrishnan



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J U D G M E N T

The appellant, the Tamil Nadu State Transport Corporation Limited, is the respondent in MCOP No.143 of 2017 on the file of the Motor Accident Claims Tribunal, Principal District Court, Ariyalur has filed the present appeal.

2. The respondents / claimants filed the above said claim petition under Section 166 of the Motor Vehicles Act, seeking compensation of Rs.30,00,000/- for the death of one Raghupathi (husband of first respondent and father of respondents 2 to 4), in a road accident that took place on 11.10.2016.

3. The brief case of the respondents / claimants is as follows :

On 11.10.2016, Raghupathi (deceased) was riding his two wheeler bearing Registration Number TN-49-AA-3879 on Ariyalur - Thanjavur Main Road. When he was nearing Thirumanur petrol bunk, a bus bearing Registration Number TN-45-N-2972 belonging to the Tamil Nadu State Transport Corporation Limited over took his two wheeler and in order to avoid the vehicles coming on the opposite direction suddenly



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applied brakes, as a result of which, Ragupathi rear ended the bus resulting in his instantaneous death.

4. According to the claimants the rash and negligent driving of the driver of the bus belonging to the appellant, the Tamil Nadu State Transport Corporation Limited was the cause of accident and therefore, they are liable to pay compensation to them.

5. The appellant, the Tamil Nadu State Transport Corporation Limited, Trichy, contested the claim petition.

6. The Tribunal after analysing the evidence on record, fixed 50% negligence on the part of the deceased, as he equally contributed to the accident, and awarded compensation of Rs.7,46,030/- to the claimants together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit, vide its orders dated 06.05.2022.

7. The appellant, the Tamil Nadu State Transport Corporation



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Limited has filed the present appeal questioning their liability to pay compensation.

8. Heard Ms.M.Rohini, learned counsel appearing for the appellant and Mr.P.Vijayakumar, learned counsel appearing for the respondents.

9. Ms.M.Rohini, learned counsel appearing for the appellant drew the attention of this court to the FIR (Ex.P1) wherein the police had fixed negligence only on the part of the rider of the two wheeler and contended that the Tribunal had erroneously fixed negligence to the extent 50% on the driver of the bus. Therefore, she prayed for setting aside the orders passed by the Tribunal.

10. Per contra Mr.P.Vijayakumar, learned counsel appearing for the respondents / claimants contended that the Tribunal on the basis of the facts of the case had fixed 50% negligence on the part of the driver of the bus and therefore, there is no reason for this court to interfere with the same.



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11. A perusal of the records shows that the accident took place on Ariyalur - Thanjavur Main Road and the bus bearing Registration Number TN-45-N-2972 belonging to the Tamil Nadu State Transport Corporation Limited over took the two wheeler and in order to avoid the vehicles coming on the opposite direction suddenly applied brakes, as a result of which, Ragupathi rear ended the bus resulting in his instantaneous death. The driver of the bus was examined as R.W.1 before the Tribunal. His evidence was that he was driving the bus at 40 kilometer speed and that Raghupathi (deceased), the rider of the two wheeler attempted to over take him and hit the bus from behind.

12. A perusal of the evidence shows that Ariyalur - Thanjavur Main Road is a broad road and two buses can go easily at the same time. The appellant, the Tamil Nadu State Transport Corporation did not adduce any evidence to show which part of the rear portion of the bus got damaged. This is important because the driver of the bus (R.W.1) in his evidence had stated that the rider of the two wheeler attempted to over take his vehicle and hit the bus. Therefore, the damage should be on the right hand side of the bus. The rough sketch (Ex.P8) shows that the accident took place in a busy locality and even according to R.W.1, he was



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driving his bus at 40 kilometer speed. The Tribunal after analysing the evidence on record had rightly concluded that the driver of the bus as well as the driver of the two wheeler were equally responsible for the accident and in the facts and circumstances, I do not see any reason to interfere with the findings recorded by the Tribunal fixing negligence on the part of the deceased as well as the Tamil Nadu State Transport Corporation in the ratio 50:50.

13. In the result,

- i. The Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.
- ii. The Award passed in M.C.O.P.No.143 of 2017 dated 06.05.2022 by the Motor Accident Claims Tribunal, Principal District Court, Ariyalur, is upheld.

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Index : Yes/No
Speaking/Non-speaking order
mtl



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To

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- 1.The Motor Accidents Claims Tribunal,
Principal District Court, Ariyalur
- 2.The Section Officer, VR Section, Madras High Court, Chennai.

R.HEMALATHA, J.



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