



C.M.A(MD)No.988 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 01.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.988 of 2022

and

C.M.P(MD)No.9780 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation,
Coimbatore Division,
Door No.37,
Mettupalayam Road,
Coimbatore.

... Appellant

Vs.

1. Suga Priya
2. Minor Sudharson
3. Vellaikannu
4. Thangavel
5. Suria Narayanan

... Respondents

6. The Branch Manager,
United India Insurance Company Limited,
2nd Floor, M.P.S.Complex,
Railway Fedar Road,
Palani Nagar, Palani Taluk,
Dindigul District.



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7. The Branch Manager,
The Oriental Insurance Company Limited,
First Floor,
Door No.82, Dr.Thirumalai Plaza,
New Tharapuram Road,
Palani Nagar, Palani Taluk,
Dindigul District.

[The 2nd claimant minor represented by his mother and guardian the 1st claimant]

[The 4th respondent is the driver of the appellant and that given up]

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to allow this appeal, set aside the award and decree made in M.C.O.P.No.3 of 2017 dated 02.07.2020 on the file of the Motor Accident Claims Tribunal/Additional District Judge, Palani.

For Appellant	: Mr.P.Prabhakaran
For R-1 & R-2	: Mr.D.Venkatesh
For R-3	: Died
For R-4	: Given up
For R-5	: No appearance
For R-6	: M/s.S.Royle Emmanuel
For R-7	: Mr.A.Ilango

JUDGEMENT

This Civil Miscellaneous Appeal is filed by the Transport Corporation against the award, dated 02.07.2020 passed in M.C.O.P.No.3 of 2017 on the file of the Motor Accident Claims Tribunal/Additional District Judge, Palani.



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2. It is a case of fatal. The mode of accident is that the bus belongs to the Transport Corporation bearing Registration No.TN-33-N-2115 coming from North to South and the TATA ACE coming from South to North. When the TATA ACE hit the bus and then it was gone backward and hit FIESTA Car. The driver of the TATA ACE alone died in the accident.

3. Initially, First Information Report was registered against the TATA ACE. The claimants have produced eye witness of the accident P.W.2, wherein the witness had deposed that the bus alone is liable. When the First Information Report was registered against the driver of the TATA ACE, the Tribunal ought to have investigated further and thereafter ought to have fixed the liability. Instead of doing so, the entire liability was fixed on the Transport Corporation and the same is erroneous. Moreover, when the bus as well as TATA ACE had head on collision, then contributory negligence ought to be fixed on the TATA ACE as well.



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4. The Learned Counsel appearing for the claimants submitted that the Tribunal has not fixed appropriate compensation. Therefore, adjudication is necessary for arriving contributory negligence as well as fixing appropriate compensation. Therefore, this Court is inclined to remit back the matter to the Tribunal for reconsideration.

5. Accordingly, this matter is remitting back to the Motor Accident Claims Tribunal/Additional District Judge, Palani, for fixing contributory negligence and appropriate compensation. The parties are at liberty to file additional pleading and evidence before the Tribunal. As Interim relief, since there is minor claimant, the Transport Corporation is directed to deposit a sum of Rs.5 Lakhs along with 7.5% of interest and costs, within a period of Eight weeks, from the date of receipt of a copy of the order. On such deposit, the 1st claimant is entitled to a sum of Rs.3 Lakhs and the 2nd minor claimants entitled to a sum of Rs.1 Lakh and the 3rd claimant is entitled to a sum of Rs.1 Lakh. The 1st and 3rd claimants are permitted to withdraw their share along with accrued interest, as per law and the share of the minor 2nd claimant is to be deposited in anyone of the Nationalized bank till he attains majority. The 1st claimant is



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permitted to withdraw interest of the deposited amount of the minor 2nd claimant. Since the Claim Petition is of the year 2022, the Tribunal is directed to dispose of the matter, within a period of Three months from the date of receipt of a copy of the Order.

6. With these terms, this Civil Miscellaneous Appeal is allowed. No costs. Consequently, connected miscellaneous petition is closed.

01.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

KSA

To

1. The Motor Accident Claims Tribunal/
Additional District Judge, Palani.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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**Order made in
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HB
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