



C.M.A.(MD).No.1096 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1096 of 2018

and

C.M.P(MD) No.11221 of 2018

The Director General of Police,
Chennai.

... Appellant/3rd Respondent

-vs-

1. Jeyakumar

2. Ambika

... Respondents 1 and 2/
Claimants

3. Johnson

4. The Managing Director,
Tamil Nadu State Transport Corporation,
Office of Ranithottam,
Nagercoil,
Nagercoil Village,
Agastheeswaram Taluk,
Kanyakumari District.

... Respondents 3 and 4/
Respondents 1 and 2

5. Nataraja

... 5th Respondent

(5th Respondent is impleaded vide order of
this Court dated 25.04.2024 made in
C.M.P(MD) No.739 of 2019 in
C.M.A(MD) No.1096 of 2018)



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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicle Act, to set aside the order dated 29.06.2018 passed in M.C.O.P.No.98 of 2017, on the file of the Motor Accident Claim Tribunal-cum- Chief Judicial Magistrate, Nagercoil, Kanyakumari District.

For Appellant	: Mr.Veera Kathiravan Additional Advocate General Assisted by Mr.C.Satheesh Government Advocate
For R-1	: Mr.S.C.Herold Singh
For R-2	: No appearance
For R-3	: Mr.Joseph Thankaraj
For R-4	: P.Prabhakaran
For R-5	: Mr.V.A.Dhana Aravindha Balaji for M/s.Dhana Law Associates

J U D G M E N T

The present Civil Miscellaneous Appeal has been filed by the Director General of Police, Chennai, who was arrayed as the third respondent in M.C.O.P.No.98 of 2017, on the file of the Motor Accident Claim Tribunal-cum- Chief Judicial Magistrate, Nagercoil, Kanyakumari District.



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2. The respondents 1 and 2 herein, as the claimants have filed the above claim petition, alleging that their son who was working as a JCB driver, aged about 18 years, while he was travelling in a Mahindra Jeep, a Bus driven by the first respondent and owned by the second respondent/Transport Corporation came in a rash and negligent manner and dashed against the Jeep. In the said accident, he had succumbed to grievous injuries. The claimants have prayed for a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) towards compensation.

3. The third respondent namely, the Director General of Police had filed a counter contending that the Mahindra Jeep, in which, the deceased was travelling was abandoned by the Government and it was sold in public auction on 20.10.2011, in favor of one Nataraja, son of Thangam. The vehicle was handed over to the said Nataraja, on 01.11.2011 and he had also executed a document taking possession of the said vehicle. When the vehicle had been sold by the police Department, they are not liable to pay any compensation whatsoever.

4. The Tribunal, after considering the evidence on record, had arrived at a finding that the accident has taken place only due to the rash and negligent



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driving on the part of the driver of the Jeep, in which the deceased was travelling as a passenger. Based on the said finding, the Tribunal has exonerated the Transport Corporation and its driver. The Tribunal further found that though the vehicle has been sold in the public auction by the third respondent, the transfer of ownership was not recorded before the RTO Office and Registration Certificate continue to reflect the name of the police department. Based upon the above said facts, the Tribunal has passed the award as against the police department, directing them to pay a compensation of Rs.14,00,000/- (Rupees Fourteen Lakhs only). Challenging the said award, the present appeal has been filed by the Police Department.

5. According to the learned Additional Advocate General appearing for the Police Department, once the vehicle is sold in public auction and the purchaser has taken possession of the vehicle, thereafter, merely because the purchaser has not chosen to approach the RTO Office for effective mutation in the Registration Certificate, liability cannot be mulcted upon the Police Department. He had further contended that, in order to establish the public auction sale and handing over and taking over of the vehicle, the Department had filed Exs.R1 to R3, before the Tribunal. However, these documents have not been properly appreciated by the Tribunal. Pending appeal, the purchaser



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of the vehicle, namely, one Nataraja, son of Thangam has been impleaded as the fifth respondent.

6. The learned counsel appearing for the impleaded fifth respondent had contended that they are not liable to pay any compensation. He further contended that since he has been impleaded as the fifth respondent for the first time in the appeal, they would like to file a counter in the claim petition and contest the claim petition.

7. In view of the fact that the fifth respondent has been impleaded in this appeal, the award of the tribunal is hereby set aside and the matter is remanded back to the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate, Kanyakumari, for fresh disposal. The newly impleaded respondent, namely, Nataraja, shall file his counter within a period of four weeks from the date of receipt of a copy of this order. The Tribunal is directed to expedite the proceedings and dispose of the same on or before **31.12.2024**.



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8. With the above said observation, this Civil Miscellaneous Appeal stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

25.06.2024

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

1. The Motor Accident Claim Tribunal
-cum- Chief Judicial Magistrate,
Nagercoil.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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