



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A(MD)No.1283 of 2024

and

C.M.P(MD)No.13707 of 2024

The Managing Director,
The Tamil Nadu State Transport
Corporation(MAD-DIV-I)Ltd,
Bye Pass Road,
Madurai

... Appellant/Respondent

.Vs.

1.Packiammal

2.Minor Priya

3.Minor Muthu Kannan

4.Minor Krishnaveni

5.Shankarammal

... Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the judgment and decree made in M.C.O.P.No.315 of 2008, dated 28.2.2019, on the file of the Motor Accidents Claims Tribunal/Principal



WEB CRYM District Judge, Dindigul.

For Appellant : Mr.K.Sudalaiyandi

For Respondents : Mr.S.Sarvagan Prabhu
1 to 5

JUDGMENT

This Civil Miscellaneous Appeal is preferred by the Managing Director of Tamil Nadu State Transport Corporation, Madurai against the order, dated 28.02.2019, passed in M.C.O.P.No.315 of 2008, on the file of the Motor Accidents Claims Tribunal/Principal District Judge, Dindigul.

2.This Civil Miscellaneous Appeal is focussed on the question of negligence.

3.Heard the learned counsel for the appellant and respondents.

4.Case set out in the claim petition is given herein in brief:

On 12.12.2007, at 9.30 a.m.,while the deceased Ramachandran was



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standing opposite to Tea stall near railway gate at Dharapuram Main Road, Palani, at that point of time, a bus bearing Registration No. TN 58 N 0202 came from north to south in a rash and negligent manner, dashed on the said Ramachandran and due to the said impact, he sustained head injury. On the way to hospital, he lost his breath. The accident occurred on account of the rash and negligent driving of the driver of the respondent/bus. As the bus is owned by the respondent-Corporation, the respondent-Corporation is liable to pay compensation to the claimants, who are the legal heirs of the deceased Ramachandran.

5.Details of counter of the respondent/Corporation is given in brief:

On 12.12.2007, at about 9.30 am., the driver of the bus took a trip from Palani and while he was proceeding towards Kallimanthayam and when the bus was proceeding near T.S.P. Camp Railway Gate, the deceased Ramachandran who is a mentally challenged person suddenly run from left towards right side of the road. The bus driver reduced the speed of the bus and turned to right side of the road. In spite of the efforts taken by him, the said Ramachandran dashed



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against the bus and invited the accident. The accident occurred only due to the negligence of the deceased Ramachandran and the bus driver was not at fault. The claimants are put to strict proof of age, avocation and income of the deceased. Therefore the respondent is not liable for the claim.

6.At trial, on the Petitioner's side, the first claimant has examined herself as P.W.1 and through her four documents were marked. On the respondent's side, the driver of the above said bus has been examined as R.W.1 and no document was marked.

7.Upon consideration, the Tribunal after having appreciated the evidence of both P.W.1 and R.W.1, concluded that it is because of the rash and negligent driving of the driver of the respondent/Corporation bus, the accident occurred and by fastening the liability on the respondent/Corporation, the compensation was quantified as Rs.6,74,800/-.

8.It has come on record through the evidence of P.W.1 that on 12.12.2007 at about 9.30 a.m while the deceased Ramachandran so as to visit Palani Hill



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Temple, was standing opposite to Tea stall near railway gate at Dharapuram Main Road, Palani, at that point of time, a bus bearing Registration No. TN 58 N 0202 came from north to south in a rash and negligent manner dashed on the said Ramachandran and due to the said impact, he sustained head injury. On the way to hospital, he lost his breath. The accident occurred on account of the rash and negligent driving of the driver of the respondent/bus. As the bus is owned by the respondent Corporation, the respondent Corporation is liable to pay compensation to the claimants, who are the legal heirs of the deceased Ramachandran.

9.It is the evidence of R.W.1 that when the bus was nearing TSP camp railway gate, the deceased Ramachandran who was standing on the left side of the road suddenly crossed the road and ran from left side to right side of the road. He slowed down the speed of the bus and turned the bus towards right side of the road. Despite his best efforts, Ramachandran, who is a mentally ill person, dashed against the bus and thus invited the accident. Therefore the bus driver is not responsible for the accident.



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10. When a suggestion was posed to P.W.1, she would deny the fact that her husband is a mentally ill person. The version of R.W.1 itself is unbelievable for the reason that when the bus was proceeding from south to north and admittedly, the deceased was standing on the western side and as per the version of R.W.1, had he crossed the road suddenly not only he should have slowed down the vehicle and thereby he would have applied brake, thereby could have averted the accident. So from the version of R.W.1 itself, it is clear that due to the rash and negligent driving of the driver of the respondent/bus only, as he hit the deceased, the accident had happened. Therefore the respondent-Corporation which owns the said bus, is liable to pay the compensation to the claimants herein. The Tribunal has rightly fastened the liability on the respondent/Corporation. I do not find any good reason to disturb the said finding of the Tribunal.

11. Based on the aforesaid discussions, this Court finds no merit in the Civil Miscellaneous Appeal and accordingly, the same stands dismissed, confirming the award of the Tribunal; and



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(1)the appellant/Transport Corporation is directed to deposit the award amount of Rs.6,74,800/- as ordered by the Tribunal, with accrued interest at the rate of 7.5% from the date of claim petition till the date of deposit and costs to the credit of claim petition before the Tribunal, less the award amount, if any already deposited, within a period of eight weeks from the date of receipt of a copy of this order.

(2)On such deposit being made, the respondents 1 and 5/claimants 1 and 5,, who are majors, are permitted to withdraw their share in the award amount with proportionate accrued interest and costs , as apportioned by the Tribunal, less the award amount if any already withdrawn, by filing necessary application before the Tribunal.

(3)the Tribunal is directed to deposit the share of the minor claimants 2,3 and 4/respondents 2,3 and 4, as apportioned by the Tribunal, together with proportionate accrued interest and costs, in an interest bearing fixed deposit, in any one of the nationalized bank, initially for a period of three years, renewable thereafter, till they attain the age of majority.



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(4)the first respondent, mother and next friend of the minor claimants 2,3 and 4/respondents 2,3 and 4 is permitted to withdraw the interest from the above said fixed deposits, once in three months, directly from the Bank.

(5)There is no order as to costs. Consequently, connected Miscellaneous Petition is closed.

15.11.2024

NCS : Yes/No
Index : Yes / No
Internet : Yes / No
vsn

To

The Motor Accidents Claims Tribunal,
Principal District Judge,
Dindigul.

Copy to

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

R.KALAIMATHI,J.



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JUDGMENT MADE IN

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