



C.M.A.(MD) No.1512 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.12.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

C.M.A.(MD)No.1512 of 2024
and
C.M.P.(MD)No.15902 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Residing at Old No.53-78/39,
New No.53-35, Chemponkarai colony, Dharmapuram,
Agasteeswaram Taluk,
Kanyakumari.
Appellant

...

VS.

1.Johnson,
2.Vijaya,
3.ThambiRajan
Respondents

...

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and award, dated 30.05.2023 in M.C.O.P.No.8 of 2021, on the file of the Motor Accidents Claims Tribunal/Chief Judicial Magistrate Court, Kanyakumari at Nagercoil.



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For appellant : Mr.S.Michel Heldon Kumar

For Respondents
for R1 & R2 : Mr.N.Sudhagar Nagaraj
for R3 : Mr.M.P.Senthil

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the respondent/Tamil Nadu State Transport Corporation Limited against the award dated 30.05.2023 made in M.C.O.P.No.8 of 2021, by the Motor Accidents Claims Tribunal/Chief Judicial Magistrate Court, Kanyakumari at Nagercoil on the liability issue.

2. The case as set out in the claim petition is stated in brief:

On 15.11.2020, at about 7.20 p.m., while the first petitioner was riding his motor cycle bearing Registration No.TN-74-AE-3686, along with his son, deceased Ragul, as pillion from west to east direction along Tiruvananthapuram-Nagercoil main road, proceeding towards Thuckalay, when the vehicle crossed the Kattathurai Junction, a bus bearing registration No.TN-74-N-1741, which belongs to the second respondent and was driven by the first



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respondent, came in a rash and negligent manner without blowing horn and hit upon the first petitioner's vehicle from behind. In order to avoid collision with another oncoming bus, he suddenly swerved the vehicle to the left and dashed upon the vehicle of the first respondent. Due to the said impact, both the rider and the pillion of the two wheeler were thrown away and the pillion dashed on the left side of the body of the bus and succumbed to injuries. As the first petitioner was engaged in admitting his son in the hospital and subsequent death of his son, the first respondent gave a false information and registered First Information Report against the first petitioner. On 05.12.2020, the first petitioner sent a complaint to the Superintendent of Police. On account of the accident, the first petitioner lost his lovable son. The accident occurred due to the negligent driving of the first respondent. The first respondent, who is the driver of the bus and the second respondent, who is the owner of the bus are liable to pay compensation for the death of his son Ragul.

3. Details of the counter of the first respondent are stated in brief:



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The claimants are put to strict proof as to how the accident happened. In fact, the first respondent was driving the bus bearing Registration No.TN-74-N-1741 with due care and caution by observing traffic rules. It was only the rider of the motor cycle lost his control and the rider as well as the pillion voluntarily fell down on the road, the accident happened.

4. The same details are found in the counter of the second respondent also.

5. At trial, on the petitioners' side, two witnesses were examined and 11 documents were marked. On the side of the respondents, the first respondent examined himself as R.W.1 and no document was marked.

6. Upon consideration, the Tribunal, after appreciating the evidence of P.W.1 and R.W.1, concluded that because of the rash and negligent driving of the first respondent, the accident happened and fastened the liability on the second respondent to pay compensation to the claimants.



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WEB COPY 7. It is the evidence of P.W.1, who rode the two wheeler and who lost his son in the accident that on 15.11.2020, at about 7.20 p.m., while he was riding his motor cycle bearing Registration No.TN-74-AE-3686 along with his son, deceased Ragul, as pillion, from west to east direction along Tiruvananthapuram-Nagercoil main road proceeding towards Thuckalay, when the vehicle crossed the Kattathurai Junction, a bus bearing registration No.TN-74-N-1741, which belongs to the second respondent and was driven by the first respondent, came in a rash and negligent manner without blowing horn and hit upon his vehicle from behind. In order to avoid collision with another on coming bus, suddenly swerved the vehicle to the left and dashed upon the bus. Due to the said impact, both the rider and the pillion of the two wheeler were thrown away and the pillion dashed on the left side of the body of the bus and succumbed to injuries. As he was engaged in admitting his son in the hospital and subsequent death of his son, the driver of the bus gave a false information and registered First Information Report against him. On 05.12.2020, he sent a complaint to the Superintendent of Police. On account of the accident, he lost his



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lovable son. The accident occurred due to the negligent driving of the first respondent. Hence, the first respondent, who is the driver of the bus and the second respondent, who is the owner of the bus, are liable to pay compensation for the death of his son Ragul.

8. Per contra, the first respondent, who is the driver of the corporation bus/R.W.1 would state that the first petitioner lost his balance and control over the two-wheeler and eventually both of them fell down and thereby, the accident occurred. R.W.1 would admit that when they fell down on the road on the right side, it means that the bus hit on them, they have fallen down.

9. Whereas, the version of P.W.1 is that when he was proceeding along the said road, the first respondent by overtaking the first petitioner's vehicle, swerved his vehicle to the left side and hit on the vehicle of the petitioner. Because of that, as narrated by R.W.1, they had fallen down and accident happened. Therefore, an inevitable conclusion is that because of the rash and negligent driving of the bus, the accident happened and the respondents are liable to pay compensation. The Tribunal has found that due to the



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rash and negligent driving of the bus driver, the accident occurred.

Therefore, this Court does not find any perversity or infirmity in the said finding of the Tribunal.

10. In the result,

(i) The Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(ii) The compensation of Rs.7,40,000/- awarded by the Tribunal is confirmed.

(iii) The Transport Corporation/appellant is directed to deposit the compensation amount i.e., Rs.7,40,000/- (less the amount already deposited if any) together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit and costs to the credit of M.C.O.P.No.8 of 2021 on the file of Motor Accidents Claims Tribunal / Chief Judicial Magistrate, Kanyakumari at Nagercoil within a period of eight weeks from the date of receipt of a copy of this Judgment.

(iv) On such deposit being made, the claimants/respondents 1 and 2 are permitted to withdraw the amount along with interest and costs, as apportioned by the Tribunal, after adjusting the



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amount, if any already withdrawn, by filing necessary application

before the Tribunal.

31.12.2024

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

To

1.The Motor Accidents Claims Tribunal/Chief Judicial Magistrate,
Kanyakumari at Nagercoil.

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

R.KALAIMATHI,J

apd



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Pre-delivery order made in
C.M.A.(MD) No.1512 of 2024

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