

**(2014) 11 MAD CK 0387**

**Madras High Court**

**Case No:** CMA No. 3142 of 2014 and M.P. No. 1 of 2014

The Managing Director

APPELLANT

Vs

Lakshmi

RESPONDENT

**Date of Decision:** Nov. 13, 2014

**Hon'ble Judges:** N. Kirubakaran, J

**Bench:** Single Bench

### **Judgement**

N. Kirubakaran, J.

It is disheartening to note that even though the breadwinner of the family died leaving behind his wife, three children and age old mother, as early on 06.10.2003 and the award was passed on 19.04.2005, till date, the claimants are yet to see the colour of the coin. The very purpose of constitution of special tribunal and following summary procedure for disposal of claim petition are of no use. If this is the way in which the victims of the Motor Vehicles Act are to be compensated, it would only denote either lacunae in the system or failure of the system.

2. The Appellant/Transport Corporation is before this Court challenging the award passed by the tribunal fastening the liability on it and awarding a sum of Rs. 4,88,800/- payable to the respondents/claimants. On 06.10.2003, the deceased namely Ponnusamy was travelling in his two-wheeler which was hit by the Transport Corporation bus driven rash and negligently, resulting death of the said Ponnusamy. Therefore the respondents/claimants filed claim petition.

3. On contest, the tribunal found that the Corporation driver was responsible for the accident and awarded compensation to be paid by the Transport Corporation. The said award is being challenged before this Court.

4. Heard the learned counsel for the appellant and the learned counsel appearing for the respondents/claimants.

5. P.W.2, eye-witness categorically stated that the accident occurred because of the rash and negligent driving of the bus driver. Moreover, Ex.P1, FIR was filed against

the driver of the bus. Taking into consideration those facts, the tribunal rightly held that the accident occurred due to the rash and negligent driving of the Corporation bus.

6. The deceased was aged about 48 years at the time of accident and he was running business by using compressor tractor and was earning about Rs. 15,000/- per month. In the absence of any acceptable evidence, the tribunal rightly determined a sum of Rs. 4,200/- as the monthly income of the deceased and deducted 1/3rd towards his personal expenses. It rightly applied multiplier 13, as the deceased was aged 48 years at the time of accident and arrived at the loss of income at Rs. 4,36,800/- [4200 x 2/3 x 12 x 13].

7. Though the first respondent/wife is entitled for more amount towards consortium, taking note of the overall award, this court sustains Rs. 10,000/- given to the first respondent towards loss of consortium, Rs. 10,000/- each towards loss of love & affection to other claimants and Rs. 2,000/- towards funeral expenses. Though no amount was awarded by the tribunal towards transportation, considering Rs. 4,88,800/- as just compensation, this court is not awarding any amount further. The rate of interest awarded by the tribunal at 9% is also sustained. The ratio adopted by the tribunal for distributing the compensation amount among the LRs of the deceased shall remain unaltered.

8. In the result, the Civil Miscellaneous Appeal is dismissed confirming the judgment and decree in MACTOP No. 296 of 2003 dated 19.04.2005 on the file of the Motor Accident Claims Tribunal (Sub Court), Udumalpet. No costs. Consequently, connected Miscellaneous Petition is closed.

9. As stated above, though the accident occurred as early as on 06.10.2003 and the award was passed on 19.04.2005, even after nine years, the respondents/claimants have not received even a single pie. The officials of the Transport Corporation cannot exhibit lethargic attitude while dealing with Motor Accident claims. The victims are already suffering due to loss of breadwinner and they cannot be made to run from pillar to post to get compensation. The appellant/transport corporation cannot postpone the payment by filing the appeal belatedly for which the respondents/claimants cannot be responsible. It is evident that the officials are not bothered about the fate of the accidents. To see that the award amount is paid promptly to the respondents/claimants and to fix personal responsibility on the concerned officials, the appellant/transport corporation is directed to deposit the entire amount awarded, alongwith interest and cost, on or before 30.11.2014 failing which the Managing Director, Tamil Nadu State Transport Corporation Ltd., Chennimalai Road, Erode shall not draw his salary for November 2014.

10. Call the matter for compliance on 01.12.2014