



# Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2022 – ISSN 2582-7820  
Editor-in-Chief – Prof. (Dr.) Rishikesh Dave; Publisher – Ayush Pandey

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## Case Comment: *B. Kothandapani v Tamil Nadu State Transport Corporation Limited*

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*Received* 27 September 2022; *Accepted* 10 October 2022; *Published* 20 October 2022

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### INTRODUCTION

The landmark case of *B. Kothandapani v Tamil Nadu State Transport Corporation Limited*<sup>1</sup> dealt with the concept of compensation to motor accident victims, the judgement of this case was delivered on the twelfth of May 2011. The study's first goal is to simplify the facts of the original case and then relate the facts of the case to the tort of negligence. While the actual facts of the case may appear irrelevant to the tort of negligence, The case's brief facts will be crucial in ensuring that the material given is presented in a succinct and understandable manner. The study then will simplify the essential elements for the tort of negligence utilising definitions given in famous cases such as *Blyth v Birmingham Water Works Co*, and then relate those definitions with the facts of the case.

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<sup>1</sup> *B. Kothandapani v Tamil Nadu State Transport Corporation Limited* [(2011) 6 SCC 420

## **CRITICAL ANALYSIS**

The bench members of this case were P. Sathasivam and B.S. Chauhan. The appellant was Mr. B.Kothandapani and the respondent was Tamil Nadu State Transport Corporation Ltd. The judgement was given on the 12<sup>th</sup> of May, 2011.

## **FACTS OF THE CASE**

The claimant-appellant sustained serious injuries in a motor vehicle accident on May 21, 1998, for which they filed a claim with the Motor Accident Claims Tribunal, Chennai (hereinafter referred to as "The Tribunal"), requesting monetary damages in the amount of Rs. 12 lakh. The Tribunal calculated the compensation and passed an award of Rs. 5,05,053.45, after discovering that the accident occurred as a result of the driver's negligence. The driver was a Kancheepuram-based driver for the Tamil Nadu State Transport Corporation (Villupuram Division-III) (hereinafter referred to as "the Corporation").

Infuriated by the Tribunal's decision, the Corporation filed a C.M.A. in the High Court of Madras, contesting the amount of compensation. Simultaneously, the appellant-claimant filed a C.M.A. with the High Court, requesting that the compensation amount awarded to them be increased. The high court considered both appeals together because they resulted from the same Tribunal judgement, and then decided and issued a joint order on December 13, 2006, decreasing the compensation by one lakh rupees. The High Court lowered the award from 5,05,053.45 rupees to 4,05,053.45 rupees. The claimant filed the aforementioned appeals as special leave petitions before this court, challenging the High Court's judgement and final order and requesting that the compensation be increased to the amount given by the Tribunal.

## **ISSUES RAISED**

1. Is the appellant entitled to a payment of Rs. 1,00,000/- in addition to the amount awarded under the heading "loss of earning capacity" for "permanent disability"?
2. Whether the quantity of compensation aggrieves the Corporation?
3. Whether the quantity is enhanced as requested by the appellant?

## FINAL JUDGEMENT

The following observations were made by the Supreme Court: “*That the compensation for loss of earning power/capacity has to be determined based on various aspects including permanent injury/disability. At the same time, it cannot be construed that compensation cannot be granted for permanent disability of any nature.*”<sup>2</sup>

“It cannot be disputed that apart from the fact that the permanent disability affects the earning capacity of the person concerned, undoubtedly, one has to forego other personal comforts, and even for normal avocation they have to depend on others.”

After considering the information presented by the wounded claimant and two doctors, it was determined that the High Court's decision to reduce a sum of 1,00,000 rupees from the total compensation awarded by the Tribunal, which was originally 5,05,053.45 rupees, was not justified. The court agreed with the contention stated by the appellant-counsel, claimant's, and the award was restored to the Tribunal's award.

## TORT OF NEGLIGENCE

Negligence is defined as the breach of duty caused by the omission to do something which a reasonable man, guided by those considerations which ordinarily regulate the conduct of human affairs would do, or doing something which a prudent and reasonable man would not do. According to *Winfield*. “negligence as a tort is the breach of a legal duty to take care which results in damage, undesired by the defendant to the plaintiff”.

The definition involves three constituents of negligence as explained in *Poonam Verma v Ashwin Patel* are as follows:

- A legal duty to exercise due care on the part of the party complained of towards the party complaining the former's conduct within the scope of the duty.
- Breach of the said duty

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<sup>2</sup> *Ibid*

- Consequential damage

Because of the negligence of the driver of Tamil Nadu State Transport Corporation (Villupuram Division-III), Kancheepuram, the claimant has sustained serious injuries, including partial blindness and amputation of the middle finger of his right hand.

### **ANALYSIS OF THE JUDGEMENT USING A HYPOTHETICAL SITUATION**

The bench agreed with the Tribunal that awarding compensation of Rs.1,50,000/- for permanent disability was correct. In a hypothetical circumstance, if a family member who does not work is involved in a car accident and suffers serious injuries that result in amputation of an arm or limb, rendering them permanently incapacitated, we cannot say that no compensation should be paid. Apart from the undeniable truth that a permanent impairment reduces a person's earning capacity, a person must forsake other personal conveniences and begin to rely on others for a typical avocation.

In the case at hand, two doctors explained the seriousness of the injuries, treatment received, and the disability, which included partial loss of eyesight and amputation of the middle finger, and after taking into account the fact that the claimant was a foreman, the court concluded that the disability affects the claimant's earning capacity and day-to-day life and that the Tribunal was correct in awarding a sum of Rs. 1,50,000. In layman's words, the Corporation was now responsible to pay the Tribunal's initial award of 5,05,053.45 rupees plus interest. If the specified amount had not yet been deposited, the Corporation was ordered to do so within two months after receiving the order. However, the amount should be reduced if any of the money has already been deposited or paid to the claimant. The appellant-claimant will be able to withdraw the money if such a deposit is made.

### **CONCLUSION**

The claimant was given the original amount established by the tribunal, with no deductions, as a result of the judgement. Because the driver was judged to be driving recklessly, the corporation

was required to pay the full amount determined by the Tribunal. Since 2011, the decision has been upheld in a number of other situations involving motor vehicle accidents.