

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 29.07.2016****CORAM****WEB COPY****THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM****C.M.A(MD) No.734 of 2016****and****CMP(MD)No.7312 of 2016**

Tamil Nadu State Transport Corporation Ltd.,
 (Kumbakonam Division-III) Ltd.,
 Karaikudi.
 respondent

: Appellant/2nd

Vs.

1.Petchiammal
 2.Minor Mariammal
 3.Minor Mylon
 4.Minor Muthiah @ Moorthi
 5.Sudalaiammal
 1 to 5

: R1 to R5/Petitioners

[Minor R2 to R4 are rep. Through
 their next friend and guardian the
 1st respondentPetchiammal]

6.Tamil Nadu State Transport Corporation Ltd.,
 Kottam No.II,
 through its Managing Director,
 having office at Palayamkottai,
 Tirunelveli.
 [Notice given up]

: 6th respondent/1st respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, against the judgment and decree passed in MCOP No.36 of 2003, dated 27th day of January 2011 on the file of the Motor Accident Claims Tribunal/Additional District Court/FTC No.1, Thoothukudi.

For Appellant

: Mr.M.Prakash

J U D G M E N T

This appeal is preferred by the Appellant Transport Corporation, requesting the award passed by the Motor Accidents Claims Tribunal/Additional District Judge (Fast Track Court No.I), Thoothukudi, in MCOP No.36 of 2003, dated 27.01.2011.

<https://hcservices.ecourts.gov.in/hcservices/>

2.The wife, minor children and mother of the deceased



Illangkudi filed a petition in MCOP No.36 of 2003 seeking compensation of Rs.15,00,000/- on the ground that on 28.09.2010, the deceased was travelling in the bus belonging to the appellant Transport Corporation bearing registration No.TN-27-N-0839 from Mudivaithanenthal to Tuticorin and at the time, the bus bearing registration No.TN-63-N-0583, which was coming from the opposite direction in a rash and negligent manner, dashed against the bus TN-27-N-0839. In the impact, the deceased Illangkudi died on the spot.

3.Both the buses involved in the accident belonged to the Tamil Nadu State Transport Corporation, but different Divisions. The claim petition was instituted against both the Managing Directors of the Corporation. They filed counter disputing the manner of the accident and their liability to pay the compensation.

4.Before the Tribunal, on the side of the claimants, three witnesses were examined as PW1 to PW3 and Exs.P1 to P4 were marked. On the side of the Transport Corporation, the conductor of the bus was examined as RW1, but no documents were produced.

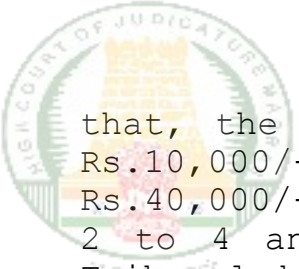
5.The Tribunal, upon consideration of the oral and documentary evidence, held that the driver of the bus bearing registration No.TN-63-N-0583 was responsible for the accident and awarded compensation of Rs.7,45,500/- together with interest @ 7.5 p.a. Challenging the said award, the present appeal has been filed.

6.Heard Mr.M.Prakash, the learned counsel appearing for the appellant Transport Corporation and perused the materials available on record.

7.Before the Tribunal, the claimants examined PW2, who is an eye witness to the accident and on his complaint, Ex.P1 the First Information report was registered. The Tribunal, accepting the evidence of PW2 came to the conclusion that the driver of the bus bearing registration No.TN-63-N-0583 caused the accident.

8.PW1 deposed that the deceased was 38 year old at the time of the accident. Ex.P2 Postmortem certificate shows that the deceased was 32 year old. The Tribunal based on Ex.P2 fixed the age of the deceased as 32 years. PW1 further deposed that the deceased was an agriculturist and he was earning Rs.6,000/- per month. In addition, he was also doing milk vending business. PW3 has given evidence stating that the deceased was supplying milk to the Co-operative Milk Society, thereby he was earning Rs.10,000/- per month and also issued a certificate Ex.P4.

9.The Tribunal, based on the evidence, assessed the monthly service income of the deceased as Rs.4,500/-, after deducting 1/3rd towards his personal expenses and calculated the loss of annual dependency as Rs.6,88,500/-, by applying multiplier of '17'. In Addition to



that, the Tribunal has awarded Rs.2,000/-towards loss of estate, Rs.10,000/- towards loss of consortium to the first claimant, Rs.40,000/- toward for loss of love and affection to the claimants 2 to 4 and Rs.5,000/- towards funeral expenses. In total, the Tribunal has awarded Rs.**7,45,500/-** together with interest @ 7.5% p.a. In my view, the award passed by the Tribunal is fair and reasonable and therefore, it is confirmed.

10.In fine, the appeal is dismissed. The appellant Transport Corporation is directed to deposit the entire amount together with the interest and costs within a period of eight weeks from the date of receipt of a copy of this order, if not deposited already. On such deposit, the claimants are permitted to withdraw the entire amount without filing any formal application before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Writ)

/True Copy/

Sub Assistant Registrar

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To

The Motor Accident Claims Tribunal
(The Additional District and Sessions Judge)
FTC No.1, Thoothukudi.

+1cc to Mr.M.Prakash, Advocate Sr.No. 41031

JAM/26.12.16/GSV-PM/3P-3C

Judgment made in

CMA (MD) No.734 of 2016
29.07.2016