



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

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C.M.A(MD) No.265 of 2017

and

C.M.P(MD)No.3034 of 2017

The Tamil Nadu State Transport
Corporation Limited,
Karaikudi through its
Managing Director.

...Appellant/Respondent

vs.

1.Tmt.A.Kanagavalli
2.Selvi. Muthuselvi
3.Minor.Muthumareeswari
4.Minor.Akshayadevi
(The 3rd and 4th respondents are
minors represented by their
mother and natural guardian
the 1st Respondent herein)

...Respondents/Petitioners

Prayer: The appeal filed under Section 173 of Motor Vehicle Act, 1988, against the Award and Decree made in M.C.O.P.No.1985 of 2014, dated 29.04.2016 on the file of the Motor Accident Claims Tribunal/IV Additional District Court, Madurai.

For Appellant : Mr.P.Prabhakaran

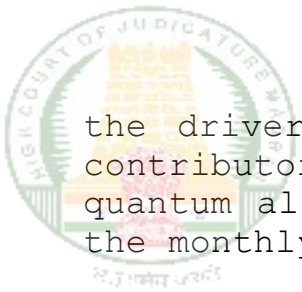
JUDGMENT

The appeal against the award of the Motor Accident Claims Tribunal-cum-IV Additional District Judge, Madurai, by the Transport Corporation.

2. The claimants are the wife, two daughters and minor son of one Angusamy, who died in the accident on 20.04.2014. According to the claimants, while the deceased was standing on the southern side in the bus-stand, the bus bearing Registration No.TN-63-N-1175 driven in a rash and negligent manner from east to west dashed against him causing grievous injuries. He was taken to Rajaji Hospital, Madurai, wherein, he died due to the injuries. The claimants also claimed that the deceased was 45 years old and doing vegetable vending earning income of Rs.25,000/- per month. There are two minor children also, who had lost their father. In all the claimants had calculated the loss at Rs.20,00,000/- (Rupees Twenty Lakhs only).

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3.The Corporation resisted the claim contending that the deceased fell down while attempting to board the moving bus and



the driver of the bus was not negligent. Therefore, there was contributory negligence on the part of the deceased. On the quantum also, it was contended that there is no evidence to prove the monthly income of Rs.25,000/- as claimed by the claimants.

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4.The learned IV Additional District Judge, Madurai had awarded a total sum of Rs.14,65,120/- and also apportioned the compensation among the legal heirs and awarded a interest at 7.5% p.a.

5.Despite his serious attempts, the counsel for the appellant is unable to find any fault with the findings on the Tribunal on the question of negligence. An FIR has also been lodged against the driver of the Bus. The Tribunal has dealt with the evidence in detail and arrived at just conclusion as negligence. Hence, I do not find any ground to interfere with the finding on the negligence.

6.As regards to the quantum, the learned counsel for the appellant would contend that the learned Tribunal had erred in assuming the income of Rs.6,500/- per month. According to him, Rs.4,500/- will be is reasonable. The Tribunal followed the judgment of Hon'ble Supreme Court in the matter of *Syed Sadiq etc., vs. Divisional Manager, United India Insurance Co., Ltd., reported in 2014(1) TNMAC 459* to fix the monthly income at Rs.6,500/- and after deducting $\frac{1}{4}$ th for personal expenses and adding 30% as future prospects, the learned Tribunal has fixed the loss of income at Rs.6337/- and rounded off to Rs.6340/-. Adopting multiplier of '14', the Tribunal arrived at loss of income at Rs.10,65,120/-. Only paltry sums were awarded towards loss of consortium, love and affection and funeral expenses. I do not find any illegality or irregularity in the award of the Tribunal while arriving at the quantum of compensation. Hence, the appeal is dismissed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

To

1.The IVth Additional District Judge,
The Motor Accident Claims Tribunal, Madurai.

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

+One cc to Mr.P.Prabhakaran, Advocate, SR.No.18873

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