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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2019

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

C.M.A.Nos.2042 of 2007 and 2679 of 2008 and
M.P.Nos.2 of 2007 and 1 of 2008

C.M.A.No.2042 of 2007:

The Managing Director
State Express Transport Corporation (TamilNadu) Ltd
(Formerly Thiruvalluvar Transport Corporation Ltd
Madras) Appellant / Respondent
(cause title accepted vide order of this Court
dated 16.08.2007 in MP.No.1 of 2007)

Vs

1. Selvi
2. Jaya
3. Jayarani
4. Venni Respondents / Petitioners
(As per order dated 16.07.2019 made in MP.Nos.1 and 2 of 2010
in CMA.No.2042 of 2007, the respondents 2 and 3 were declared as
majors and their mother Selvi was discharged from guardianship)

C.M.A.No.2679 of 2008:

The Managing Director
State Express Transport Corporation (TamilNadu) Ltd
(Formerly Thiruvalluvar Transport Corporation Ltd
Madras) Appellant / Respondent
(cause title accepted vide order of this
court dated 11.08.2008 in MP.No.1 of 2008)

Vs

1. Minor Malathi
2. Minor Renuka
(Minors are represented by their next friend Selvaraj)
Respondents / Petitioners

CMA.No.2042 of 2007: Appeal under Section 173 of the Motor
Vehicles Act against the judgment and decree dated 17.01.2005
made in MCOP No.239 of 2000 on the file of the Motor Accidents
Claims Tribunal/Sub Court, Madurantakam.



CMA.No.2679 of 2008: Appeal under Section 173 of the Motor Vehicles Act against the judgment and decree dated 17.01.2005 made in MCOP No.237 of 2000 on the file of the Motor Accidents Claims Tribunal/Sub Court, Madurantakam.

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For Appellant : Mr.M.Krishnamoorthy (for both CMAs)

For Respondents: Mr.R.Muralidharan (for both CMAs)

COMMON JUDGMENT

The case in brief is as follows:

On 18.03.1993, at about 4.30 a.m., the husband of the first respondent in C.M.A.No.2042 of 2007, the father of the respondents in C.M.A.No.2679 of 2008 and others, were travelling in an auto-rickshaw bearing Reg.No.TN 21 Z 7921, on the GST Road. When the auto-rickshaw reached near Pakkam Village, the bus bearing Reg.No.TN 01 N 0695, belonging to the appellant Transport Corporation, came from the opposite direction in a rash and negligent manner and dashed against the auto-rickshaw resulting in the death of all the occupants of the auto-rickshaw on the spot. The legal heirs of the deceased filed separate claim petitions before the Tribunal. Considering the materials and evidence available on record, the Tribunal has arrived at a total compensation of Rs.4,08,000/- in respect of the claimants in C.M.A.No.2042 of 2007 (MCOP No.239 of 2000) and a total compensation of Rs.3,60,000/- in respect of the claimants in C.M.A.No.2679 of 2008 (MCOP No.237 of 2000).

2. Challenging the same, the appellant Transport Corporation has filed the present Civil Miscellaneous Appeals.

3.The learned counsel for the appellant Transport Corporation has submitted that the Tribunal ought to have dismissed the claim petition since the accident had occurred due to the rash and negligent driving of the driver of the auto-rickshaw, in which more than seven persons have travelled. The overloading had caused the improper driving which led to the accident. It is also submitted that the compensation amounts awarded by the Tribunal are excessive.

4. Per contra, the learned counsel for the respondents/claimants has submitted that no contra evidence has been adduced by the Transport Corporation, in order to establish that the accident had happened only due to the rash and negligent driving of the driver of the Auto Rickshaw. In the absence of such proof, the Tribunal has correctly fastened the negligence on the part of the Transportation Corporation bus



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driver, based on the evidence and documents produced on the side of the claimants. Hence, there is no need to interfere with the award passed by the Tribunal. It is also submitted that the compensation amounts awarded by the Tribunal are just and reasonable.

5. On the side of the claimants P.Ws.1 to 4 were examined and Exs.P1 to P5 were marked. On the side of the appellant / Transport Corporation, no witnesses were examined and no documents were marked. Though P.Ws.1 and 2 deposed before the Tribunal that the accident had happened only due to the rash and negligent driving of the auto-rickshaw driver, they are not the eye-witnesses to the occurrence. Whereas P.W.3 is the eye-witness to the occurrence, who deposed before the Tribunal that the bus in question came in a rash and negligent manner and dashed against the auto-rickshaw. Considering the materials and evidence available on record, the Tribunal came to the conclusion that the accident had occurred only due to the rash and negligent driving of the driver of the bus, which factual finding this Court is not inclined to interfere.

6.Regarding the quantum of compensation awarded by the Tribunal, the Tribunal has awarded a sum of Rs.4,08,000/- as total compensation in respect of the claimants in C.M.A.No.2042 of 2007. The said sum has been awarded towards loss of income, fixing the monthly income of the deceased at 3,000/-, deducting $1/3^{\text{rd}}$ of the amount towards personal expenses of the deceased and adopting the multiplier of 17. Likewise, in respect of the claimants in C.M.A.No.2679 of 2008, the Tribunal has awarded a sum of Rs.3,60,000/- as total compensation. The said sum has been awarded towards loss of income, fixing the monthly income of the deceased at 3,000/-, deducting $1/3^{\text{rd}}$ of the amount towards personal expenses of the deceased and adopting the multiplier of 15. The Tribunal, placing reliance on the exhibits and evidence of witnesses, and taking note of the II Schedule of the Motor Vehicles Act and all other aspects in a proper perspective, has awarded the above compensation amounts. Further, this Court is of the considered view that the above amounts awarded are reasonable and justifiable and hence the same are confirmed.

7.In the result, the Civil Miscellaneous Appeals are dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

8.The appellant/Transport Corporation is directed to deposit the award amounts as ordered by the Tribunal with interest and costs, after deducting the amounts if any already deposited, within a period of four weeks from the date of receipt of a copy of this judgment. The minor respondents in C.M.A.No.2679 of 2008 would have attained majority by now. Hence, on such deposit



being made, the respondents / claimants in these appeals are permitted to withdraw their respective shares as apportioned by the Tribunal, on making proper application.

Sd/-

Assistant Registrar(Audit)

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Sub Assistant Registrar

vrn

To

1.The Subordinate Judge,
The Motor Accident Claims Tribunal
Madurantakam.

2.The Section Officer, V.R.Section
Madras High Court
Chennai 104.

+2cc to Mr.R.Muralidharan, Advocate, S.R.No.60449, 60450

C.M.A.Nos.2042 of 2007 and 2679 of 2008
and

M.P.Nos.2 of 2007 and 1 of 2008

SSN(CO)
CB(31/08/2021)