

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

C.M.A.No.1273 of 2021

and

C.M.P.No.6515 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation
(Salem) Limited,
Salem.

... Appellant

Vs.

1.Thangamani
W/o.Late Velmurugan

2.Vasantha
W/o.Subramani

3.Subramani
S/o.Late Vellaidurai

.... Respondents

Prayer: Civil Miscellaneous Appeals filed u/s.173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 09.09.2019 passed in M.C.O.P.No.839 of 2013 on the file of the Motor Accident Claims Tribunal, Additional District Court, Krishnagiri.

For Appellant : Ms.P.Rajathi
for Mr.D.Raghu

For Respondents : Mr.M.Selvam

JUDGMENT

[Judgment of the Court was delivered by R.SUBBIAH, J]

The matter is heard through Video Conferencing.

2. By consent, the appeal is taken up for final disposal at the admission stage itself.

3. For the sake of convenience, appellant herein is referred to as 'Transport Corporation' and respondents herein are referred to as 'Claimants'.

4. This appeal has been filed by Transport Corporation as against the judgment and decree dated 09.09.2019 passed in M.C.O.P.No.839 of 2013 on the file of the Motor Accident Claims Tribunal, Additional District Court, Krishnagiri.

5. The brief facts of the case are as follows:

Respondents are wife and parents of deceased Velmurugan. On 06.06.2013 at about 19.30 hours while the deceased was riding his two-wheeler bearing Registration No.TN-29-F-5781 on the Nallampalli to Dharamapuri Main Road, a bus bearing Registration No.TN-30-N-1123, belonging to Transport Corporation, came in a rash and negligent manner and dashed against the two-wheeler, as a result of which the deceased sustained grievous injuries and met his instantaneous death. The deceased was the owner of Heavy Goods vehicle as well as the driver of his own vehicle and was earning a sum of Rs.20,000/- p.m. Hence, claimants filed a claim petition seeking compensation in a sum of Rs.20,00,000/-.

6. The said claim was resisted by Transport Corporation by filing a detailed counter statement *inter alia* contending that the accident had not occurred in the manner as projected by claimants. They have also denied the age, occupation and income of the deceased.

7. To prove their claim, on the side of claimants, 2 witnesses were examined and 14 documents were marked as Exs.P1 to P14. On the side of Transport Corporation, none were examined and no exhibits were marked.

8. On appreciation of materials and the entire evidence on record, the Tribunal arrived at a finding that the accident had occurred due to the rash and negligent driving of the bus by its driver and the Transport Corporation is liable to pay compensation. The compensation awarded by the Tribunal is as follows:

Sl. No.	Compensation awarded under the head	Amount (in Rs.)
1.	Loss of dependency	22,84,800/-
2.	Loss of consortium	40,000/-
3.	Loss of estate	15,000/-
4.	Funeral expenses	15,000/-
	Total	23,54,800/-

The said sum was directed to be paid together with interest at 7.5% p.a. from the date of claim petition till the date of deposit.

9. The main grievance of learned counsel appearing for Transport Corporation is that the Tribunal, while awarding compensation under the head 'loss of dependency' had fixed the monthly income of the deceased at Rs.12,000/-. Absolutely no documentary evidence was produced to prove the income of the deceased. In the absence of any proof, the Tribunal ought not to have fixed a sum of Rs.12,000/- as the monthly income of the deceased. Thus, learned counsel submits that the amount awarded by the Tribunal needs appropriate reduction.

10. *Per contra*, learned counsel appearing for claimants made his submissions supporting the award passed by the Tribunal.

11. On a perusal of records, this Court finds that on the side of claimants, Ex.P8 - National permit of lorry of the deceased and Ex.P9 - R.C. of the vehicle have been marked. Further, the wife of the deceased was examined as PW-1. In such circumstances, it cannot be said that absolutely no document was produced to prove the income of the deceased. Considering the cost of living that was prevailed at the time of accident, this Court is of the view that the sum of Rs.12,000/- fixed by the Tribunal as the monthly income of the deceased cannot be said to be on the higher side. The Tribunal had rightly added 40% towards future prospects, deducted 1/3 towards personal expenses and applied multiplier '17' and awarded compensation in a sum of Rs.22,84,800/- $[12000 + 40\%(-) 1/3 * 12 * 17]$ under the head 'loss of dependency'. This Court finds that the approach adopted by the Tribunal in awarding compensation under the head 'loss of dependency' is just and reasonable. Moreover, the Tribunal had not awarded any amount towards loss of love and affection to the parents of the deceased. In such circumstances, this Court is of the view that the award of the Tribunal does not require any interference by this Court.

Accordingly, the Civil Miscellaneous Appeal is dismissed in limine. The Transport Corporation is directed to deposit the compensation of Rs.23,54,800/-, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit, within a period of four weeks from the date of receipt of this judgment. On such deposit being made, respondents/wife and parents of the deceased are entitled to withdraw their respective shares, as apportioned by Tribunal, together with interest, on due application. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

The Motor Accident Claims Tribunal,
Additional District Court,
Krishnagiri.

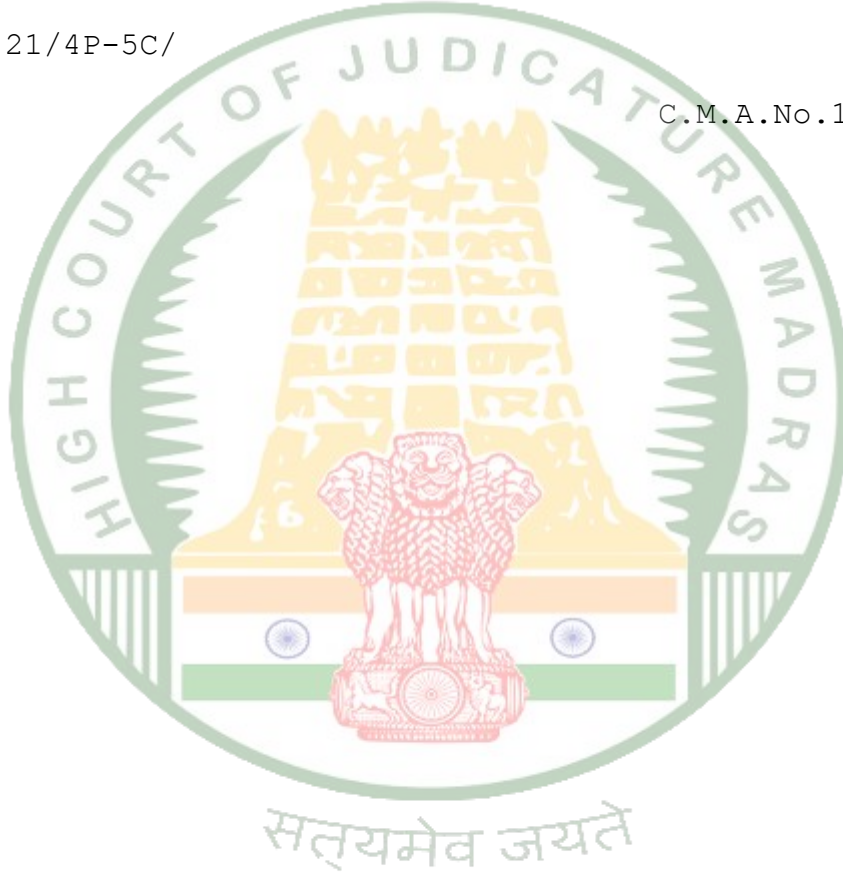
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High Court of Madras, Chennai.

+lcc to Mr.M.Selvam, Advocate SR.NO..21688

+lcc to Mr.D.Raghu, Advocate SR.NO..21215

AKM/17.04.21/4P-5C/

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