



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2021

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD) No.711 of 2020

and

CMP(MD) .No.7272 of 2020

M/s.Tamilnadu State Transport
Corporation Limited,
Kumbakonam Division,
Trichy.

... Appellant/ Respondent

vs.

1. Ananthamathangi
2. S.Venkatachalam
3. Minor S.Aathithya
(3rd Respondent represented by his
guardian and mother 1st petitioner
Ananthamathangi)

4. Rajammal

... Respondents/Claimants

Prayer: Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the impugned award passed in M.C.O.P.No.1005 of 2015 dated 27.11.2019 on the file of the MACT (Special District Judge), Tiruchirappalli.

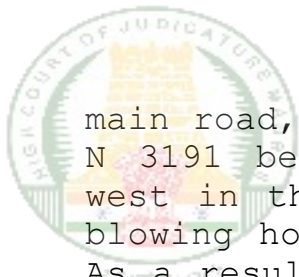
For Appellant : Mr.P.M.Vishnuvarthanan

J U D G M E N T

This appeal has been filed against the judgment and decree dated 27.11.2019 made in M.C.O.P.No.1005 of 2015, on the file of the learned Motor Accident Claims Tribunal (Special District Judge), Tiruchirappalli.

2. The case of the claimants before the Tribunal:-

The deceased Seetharaman was working as Delivery man in Professional Courier. On 25.10.2014, the deceased Seetharaman was pedaling his bicycle from Chathiram Bus stand to Trichy main road from east to west. When he was nearing the place of occurrence, at about 7.00 p.m., near Anbil Dharmalingam Statue in Karur Bye pass



main road, the driver of the bus bearing registration number TN 45 N 3191 belonging to the appellant/respondent came from east to west in the same direction in rash and negligent manner, without blowing horn and in a high speed and dashed against the deceased. As a result of which, the deceased sustained serious injuries and died on the spot. In respect of the occurrence, a case in Crime No.280 of 2014 was registered on the file of Traffic North Police Station for the offences under Sections 279 and 304(A) IPC against the respondent's bus driver. The deceased was aged about 41 years and was working as Delivery man in Courier service.

3. The deceased was earning Rs.300/- per day excluding additional income. The first respondent/claimant is the wife, second and third respondents/claimants are sons and fourth respondent/claimant is the mother of the deceased, claiming compensation amount of Rs. 20 lakhs, approached the Tribunal.

4. According to the appellant, the deceased collided himself against the bus and got injured, when the appellant's bus had stopped and hence, the accident had happened only due to contributory negligence on the part of the deceased. Moreover, the age, occupation, monthly income of the deceased pleaded are not admitted and the appellant denied that the respondents/claimants are only legal heirs of the deceased. It is also stated that the claim amount and the rate of interest fixed by the Tribunal was high and hence, the award passed by the Tribunal is to be set aside.

5. On the side of the claimants, 5 witnesses were examined and 17 documents marked. On the side of the respondent, one witness was examined and one document was marked. Two third party documents were also marked.

6. At the conclusion of the enquiry, the Tribunal came to the conclusion that the accident took place only due to rash and negligent driving on the part of the respondent/appellant vehicle and liability was fixed upon the owner of the vehicle. Regarding the compensation, it fixed the same at Rs. 17,65,000/- together with 7.5% interest per annum from the date of petition till the date of deposit.

7. Challenging the same, the instant appeal has been preferred by the Transport Corporation on the ground that the occurrence took place only due to the negligence on the part of the deceased and the Tribunal ought not to have award a huge amount of compensation of Rs.15,75,000/- by fixing notional income of the deceased at Rs.10,000/- without any proof of income.

8. Insofar as the liability, the Tribunal on appreciation of



evidence and documents on records filed by both sides, particularly the evidence adduced by PW2 and PW3, came to the conclusion that the accident took place only due to rash and negligent driving on the part of the driver of the respondent/appellant vehicle and liability was fixed upon the owner of the vehicle. It is evident from the said award that the driver of the respondent/appellant vehicle is liable for the accident and I do not find any reason to interfere with the said finding.

9. Perusal of record shows that the deceased was working as Delivery man in a Courier service and was earning Rs.7,000/- per month excluding additional income. The deceased was aged 41 years at the time of accident. The deceased was working as a Delivery man in Courier Service, besides he was the Kurukal at Pambalamman Veeraswaram Temple at Srirangam Town and earned Rs.500/- per month. It is also stated that the deceased was also performing some ritual ceremonies, out of which, he earned Rs.10,000/- per month.

10. The Hon'ble Supreme Court, in ***Syed Sadiq vs. United India Insurance Co.Ltd.***, reported in **2014 (1) TN MAC 459(SC)**, has fixed the monthly income at Rs.6,500/- for a vegetable vendor where there was no proof of income. In the present case on hand, considering all the facts and circumstances, the Tribunal had rightly fixed a minimum monthly income at Rs.10,000/- and the appellant has not raised any valid ground to interfere in the quantum awarded by the Tribunal. Therefore, in my opinion, the monthly income fixed by the learned Judge is very reasonable and there is no infirmity in the award passed by the Tribunal.

11. In the result, this **Civil Miscellaneous Appeal is dismissed**. The appellant/Transport Corporation is directed to deposit the entire award amount to the credit of M.C.O.P.No.1005 of 2015, on the file of the Motor Accident Claims Tribunal (Special District Judge), less the amount already deposited, if any, along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit, the Tribunal is directed to transfer the said amount and deposit the same to the credit of C.M.A.(MD)No.711 of 2020, before the Indian Bank, High Court Branch, Madurai, which amount shall be deposited by the Indian Bank in an interest bearing account. On such deposit, the major claimants are permitted to withdraw their respective award amount along with accrued interest as apportioned by the Tribunal. Insofar as the share of the minor/3rd respondent is concerned, the first respondent, the mother/guardian of the minor, is permitted to withdraw the interest accrued thereon once in three months for



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the welfare of the minor, till he attain majority. No costs. Consequently, connected civil miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To
The Special District Judge,
Motor Accident Claims Tribunal,
Tiruchirappalli.

Copy to

The Record Keeper-2 copies
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.P.M.VISHNUVARTHANAN, Advocate (SR-148[F] dated
05/01/2021)

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