



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2021

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.A(MD)No.723 of 2019

and

Cros.Obj(MD) .No.18 of 2019

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Tamil Nadu State Transport Corporation,
The Branch Manager,
Coimbatore

... Appellant / Respondent

Vs.

1.Krishnaveni
2.Minor Gobika
3. Minor Gurusarathy
[The minor respondents 2 and 3 are represented through their
mother/
next guardian the 1st respondent]
4. Samayan

5. Valli ...Respondents / Petitioners

PRAYER:- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree made in M.C.O.P.No.149 of 2016 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate Court, Sivagangai, dated 29.10.2018.

For Appellant : Mr.P.Prabhakaran
For Respondents : Mr.K.Ravi for R1 to R5

Cros.Obj(MD) .No.18 of 2019

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3. Minor Gurusarathy
[The minor respondents 2 and 3 are represented through their
mother/next guardian the 1st respondent]
4. Samayan
5. Valli ...Cross Objectors/Respondents 1 to 5/
Petitioners 1 to 5

Vs.

Tamil Nadu State Transport Corporation,
The Branch Manager,
Coimbatore

... Appellant / Respondent

For Cross Objectors : Mr.K.Ravi
For Respondents : Mr.P.Prabhakaran



J U D G M E N T

This Civil Miscellaneous Appeal has been filed by the appellant/respondent against the award of the Motor Accident Claims Tribunal/Chief Judicial Magistrate Court, Sivagangai made in M.C.O.P.No.149 of 2016, dated 29.10.2018.

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2. It is a case of fatal accident occurred on 05.06.2015 at about 08.00 p.m., when the deceased Duraisingam went to Kovai Saravanampatti Shakthi Road in hi vehicle bearing registration No.TN 66 AA 9135 and when he nearing Balamurugan Pazhamuthir Nilayam, at the left side of the road, at that time a TNSTC Bus bearing registration No.TN 38 N 1523 belonging to the appellant/respondent in a great speed driven by its driver in a rash and negligent manner dashed against the deceased Duraisingam and due to this accident, the deceased sustained head injuries and died on the spot.

3. The Wife, children and parents of the deceased filed a claim petition before the Tribunal in M.C.O.P.No.149 of 2016 on the file of the Motor Accident Claims Tribunal/Chief Judicial Magistrate Court, Sivagangai, seeking compensation of Rs.30,00,000/-.

4. Before the Tribunal, the respondents/claimants examined two witnesses as P.Ws.1 and 2 and marked 9 documents as Ex.P.1 to Ex.P.9. The appellant/Transport Corporation examined one witness as R.W.1 and marked 3 documents as Ex.R1 to Ex.R.3.

5. The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the driver of the TNSTC bus and therefore, directed the appellant/Transport Corporation to pay a sum of Rs.19,01,250/-, as compensation with interest at 7.5% per annum from the date of petition to till the date of realization.

6. Against which, the appellant/Transport Corporation filed this present appeal seeking modification in the compensation.

7. The learned counsel for the appellant/Transport Corporation would submit that the deceased died at the age of 35 years and since, he was earning by running his own winding works company, without specific proof for the monthly income of the deceased, the Tribunal fixed the monthly income of Rs.7,500/-. It is also the contention of the learned counsel appearing for the appellant/Transport Corporation that though the age of the deceased was 35 years, the Tribunal ought to have adopted the multiplier '16' instead of '17' and would also state that the

deceased
winding w

9. Heard the learned counsel for the parties and perused the materials placed before this Court.

a) Loss of Income - Rs.17,21,250/-
b) Loss of Consortium - Rs.40,000/-
c) Funeral Expenses - Rs.15,000/-
d) Loss of Estate - Rs.15,000/-
e) Loss of Love and Affection - Rs.1,00,000/-
f) Transport - Rs.10,000/-
Total Rs.**19,01,250/-**.

Rs. 50,000/- (Rupees Fifty Thousand Only)

3/5



13. Similarly, the sum of Rs.1,00,000/- (Rupees One Lakh only) awarded by the Tribunal towards loss of love and affection is on the lower side and therefore, the same is enhanced to a sum of **Rs.2,00,000/-** (Rupees Two lakhs only) by this Court and the other heads are confirmed.

14. In view of the settled position of law, this Court modifies the award of the Tribunal by as under:-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	Loss of Income	17,21,250	15,12,000	modified
2.	Loss of Consortium	40000	50000	Enhanced
3.	Funeral Expenses	15000	15000	
4	Loss of Estate	15000	15000	
5.	Loss of Love and Affection	1,00,000	2,00,000	Enhanced
6.	Transport	10000	10000	
	Total	Rs.19,01,250	Rs.18,02,000	Modified to a sum of Rs.18,02,000/-

15. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed, modifying the award of the Tribunal from **Rs.19,01,250/- (Rupees Nineteen Lakhs One Thousand and Two Hundred and Fifty only)** to a sum of **Rs.18,02,000/- (Rupees Eighteen Lakhs and Two Thousand only)** along with interest at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs;

(ii) The appellant/Insurance Company is directed to deposit the entire award amount of **Rs.18,02,000/- (Rupees Eighteen Lakhs and Two Thousand only)** with accrued interests and costs, within a period of four weeks from the date of receipt of a copy of this judgment. On such deposit being made, the respondents/claimants are permitted to withdraw the entire award amount, with accrued interests and costs, without filing any formal application before the Tribunal.

(iii) Insofar as the minor respondents 2 and 3 are concerned, their shares with accrued interest shall be deposited in any one of the Nationalized Bank, in Fixed Deposit, initially for a period



of three years, renewable thereafter, till they attain majority. The first respondent/claimant, the mother and guardian of the minors, is permitted to withdraw the interest accrued thereon once in three months and utilize the same for the welfare of the minors. The first respondent, the mother/guardian of the minor, is permitted to withdraw the interest accrued thereon once in three months for the welfare of the minor, till they attain majority. No Costs.

16. Learned counsel for the claimants would agree to the above order considering the financial crisis of the claimants and would pray to deposit the entire amount within a period of four weeks, for which, the learned counsel for the appellant/Transport Corporation also agreed. Accordingly, Cross Objection is closed.

17. As rightly stated, this Court, by an interim order dated 04.10.2019, directed the appellant/Transport Corporation to deposit a sum of Rs.15,00,000/- to the credit of M.C.O.P.No.149 of 2016. But, even after a lapse of one and half years, the appellant/Transport Corporation has not deposited the amount as directed by this Court. Hence, this court directs the appellant/Transport Corporation to pay the entire amount within a period of four weeks to the credit of M.C.O.P.No.149 of 2016.

18. List the matter on **10.03.2021**, for 'reporting compliance'.

Sd/-

Assistant Registrar(CS-)

// True Copy //

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Sub Assistant Registrar(CS)

pkn

To

1.Motor Accident Claims Tribunal/Chief Judicial Magistrate Court,
Sivagangai.

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

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-4220[F] dated 10/02/2021

+1 CC to M/s.K.RAVI, Advocate (SR-4346[F] dated 10/02/2021)

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SGS (CO)

TP(12.02.2021) 5P 6C
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