



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :04.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)No.360 of 2017

and

CMP(MD)No.3906 of 2017

The Managing Director,
The Tamil Nadu State Transport Corporation,
Madurai Division - III, Ranithottam,
Nagercoil, Kanyakumari District. : Appellant/2nd Respondent

Vs.

1.Antony Grace Juliet
2.Minor Arun Raj
3.Minor Anish Raj
4.Rosammal : R1 to R4/Petitioners
5.Pathrose

(R5 is the driver of the appellant
and that given up)

6.The Branch Manager,
National Insurance Company Limited,
Near Head Post Office Junction,
Nagercoil. : R5 and R6/R1 and Additional R3

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act against the award, dated 07.09.2012 made in MCOP No.53 of 2009 on the file of Motor Accident Claims Tribunal (Subordinate Court), Padmanabhapuram.

For Appellant : Mr.P.Prabhakaran

For R1 to R3 : Mr.C.Sankar Prakash

For R4 : No Appearance

For 5th Respondent : Given Up

For 6th Respondent : Mr.V.J.Kumarvel



JUDGMENT

(Thro' VC)

Challenge made in this appeal is to the award passed by the Motor Accident Claims Tribunal (Subordinate Court), Padmanabhapuram, in MCOP No.53 of 2009, dated 07.09.2012.

2.The brief facts of the case are that on 31.05.2006 at 4.30 pm the deceased John Sundar Raj was riding his Toyota Qaulis Car TN-74-X-7926 towards Nagercoil and when he was proceeding on Chettikulam to Parvathipuram Road near Palpannai, the Transport Corporation Bus TN-49-N-1092 came in the opposite direction in a rash and negligent manner and hit against the Car. In that process, the deceased sustained fatal injuries on his head and face and on the way to the hospital, he succumbed to injury. The claimants, being the wife, son, daughter and mother of the deceased, sought compensation of Rs.5,00,000/- on the ground that the driver of the offending vehicle was responsible for the accident.

3.The claimants have stated that at the time of the accident, the age of the deceased was 46 and he was conducting an electrical stores at Kozhiporvilai and was earning Rs.7,500/- per month. A criminal case in Crime No.67 of 2006 was registered against the driver of the offending vehicle by Traffic Police, Kattar, Nagercoil.

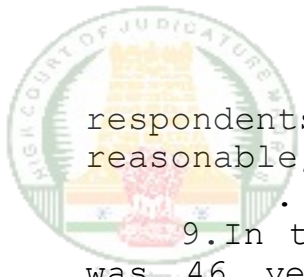
4.The claim was opposed by the appellant Transport Corporation disputing the manner of accident and their liability to pay compensation.

5.The Tribunal, upon consideration of oral and documentary evidence, came to the conclusion that the driver of the offending vehicle was responsible for the accident and awarded compensation of Rs.5,78,000/- together with interest @ 7.5 % p.a. Aggrieved by the award of the tribunal, the appellant Transport Corporation is before this court.

6.Heard both sides and perused the materials available on record.

7.The manner of the accident and the finding on negligence are not in dispute and the appeal is confined only to quantum of compensation awarded by the Tribunal.

8.It is contended by the learned counsel for the appellant that the tribunal has not applied correct multiplier and the quantum of award is on the higher side, so the quantum is to be reduced. On the other hand, the learned counsel for the



respondents 1 to 4/claimants submitted that the award is reasonable, which does not warrant any interference of this court.

9.In the instant case, it is not in dispute that the deceased was 46 years old at the time of accident. Since no reliable document has been produced to prove the income of the deceased, the Tribunal fixed the monthly income of the deceased at Rs.4,500/- and after deducting 1/3rd towards personal and living expenses and by applying multiplier '13', awarded Rs.4,68,000/- towards loss of dependency. Further, the Tribunal awarded Rs.60,000/- towards loss of love and affection, Rs,20,000/- towards loss of consortium to the 1st claimant; Rs.10,000/- towards loss of estate; Rs.10,000/- for ambulance charges and Rs.10,000/- towards funeral expenses. In total, the Tribunal has awarded **Rs.5,78,000/-** together with interest @ 7.5% p.a. This court is of the considered opinion that the award of the tribunal, based on the evidence is reasonable and warrants no interference of this court and the same is confirmed.

10.In the result, the Civil Miscellaneous Appeal is dismissed, confirming the award of the tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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To

1.The Subordinate Judge,
Motor Accidents Claims Tribunal,
Padmanabhapuram, Nagercoil.

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

+1 CC to Mr.P.PRABHAKARAN, Advocate (SR-3370[F] dated
04/02/2021)

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KM (12.03.2021) 3P 5C