



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :04.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

C.M.A(MD)No.404 of 2017

and

CMP(MD)No.4381 of 2017

The Managing Director,
The Tamil Nadu State Transport Corporation,
Nagercoil, Agastheswaram Taluk,
Kanyakumari District.

: Appellant/2nd Respondent

Vs.

1.Ramayyan Asari
2.Pasubathi
3.Ajitha
4.Sajitha

: R1 to R4/Petitioners

5.Justin Raj
(R5 is the driver of the appellant and
that given up)

6.The Branch Manager,
The Oriental Insurance Company Limited,
Office at D.D.J Centre, 1st Floor,
Opp. To Vadasery Bus Stand,
Nagercoil, Agastheswaram Taluk,
Kanyakumari District.

: R5 and R6/Respondents 1 & 3

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of Motor Vehicles Act against the award, dated 04.08.2011 made in MCOP No.23 of 2007 on the file of Motor Accident Claims Tribunal (Sub Court), Padmanabhapuram.

For Appellant : Mr.P.Prabhakaran

For R1 to R4 : Mr.C.K.M.Appaji

For 5th Respondent : Given up

For 6th Respondent : Mr.K.Bhaskaran



JUDGMENT

(Thro' VC)

Challenge made in this appeal is to the award passed by the Motor Accident Claims Tribunal (Sub Court), Padmanabhapuram, in MCOP No.23 of 2007, dated 04.08.2011.

2.The brief facts of the case are that on 31.12.2006 at 2.40 pm, the deceased Ratheesh Kumar @ Reji was riding the motor cycle TN-74-V-1608 from Kavasthalam Junction to Mamoodu Junction and while he was nearing opposite of Helen Technical Institute at Kavasthalam, the TNTSC Bus TN-74-N-0673 came in a rash and negligent manner in the opposite direction and hit against the two wheeler. Due to it, the rider of the motor cycle thrown out and back wheel tyre of the bus run over his head and died on the spot. The claimants, being the legal heirs of the deceased filed a claim petition seeking compensation of Rs.10,00,000/- on the ground that the driver of the Bus was responsible for the accident.

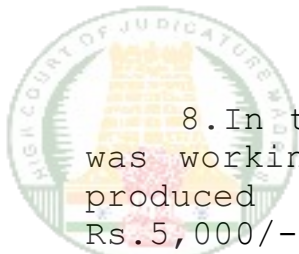
3.The claimants have stated that at the time of the accident, the age of the deceased was 25 and he was working as 'Carpenter' and was earning Rs.5,000/- per month. A criminal case in Crime No.330 of 2006 was registered against the driver of the Bus by Kulasekharam Police.

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 Bus was responsible for the accident and awarded compensation of Rs.4,58,500/- with interest @ 7.5 % p.a. Aggrieved by the award of the tribunal, the appellant Insurance Company is before this court.

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

7.It is contended by the learned counsel for the appellant that the tribunal without appreciating the law and facts and evidence had wrongly fixed the entire responsibility on the part of the driver of the Transport Corporation Bus and the multiplier adopted by the tribunal is wrong and further, 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.



8.In the instant case, it is not in dispute that the deceased was working as 'Carpenter'. Since no reliable document has been produced to prove the monthly income of the deceased at Rs.5,000/-, considering the facts and circumstance of the case and after deduction of personal expenses, the tribunal fixed the monthly income of the deceased at Rs.3,000/- per month and by applying proper multiplier '11', awarded Rs.3,96,000/- towards loss of income. Further, the Tribunal awarded Rs.40,000/- towards loss of love and affection to the claimants 1 to 4; Rs.5,000/- towards funeral expenses; Rs.7,500/- for transportation and Ambulance expenses, Rs.5,000/- towards loss of estate and Rs.5,000/- towards damages to clothes. In total, the Tribunal has awarded **Rs.4,58,500/-** 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.

9.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-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

- 1.The Sub Judge,
Motor Accidents Claims Tribunal,
Padmanabhapuram,
Kanyakumari District.
- 2.The Record Keeper-2 copies
V.R Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to Mr.P.PRABHAKARAN, Advocate (SR-3371[F] dated 04/02/2021)

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04.02.2021

KM (16.03.2021) 3P 5C