



C.M.A.Nos.1271 & 1272 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2022

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.M.A.Nos.1271 & 1272 of 2022

&

C.M.P.Nos.9241 & 9245 of 2022

C.M.A.No.1271 of 2022

The Managing Director,
Tamil Nadu State Transport
Corporation, Bye Pass Road,
Madurai – 625 010.

...Appellant

Vs

1.N.Naina Mohamed

2.N.Sahitha

3.T.Shahjahan

4.The New India Assurance Company Ltd.,
No.1, Bharathi Road,
Arcot Woodlands Building,
Cuddalore.

... Respondents

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Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Decree and Judgement dated 25.03.2021 made in M.C.O.P.No.1730 of 2017 on the file of the Motor Accident Claims Tribunal, I Additional District & Sessions Judge, Cuddalore.

For Appellant : Mr.L.Ramanathan.

C.M.A.No.1272 of 2022

The Managing Director,
Tamil Nadu State Transport
Corporation, Bye Pass Road,
Madurai – 625 010.

...Appellant

Vs

- 1.M.Seiyathalibathima
- 2.Minor. M.Parveen Banu
- 3.Minor. M.Syed Farook
- 4.D.Sikkanthar Beevi



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5.T.Shahjahan

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6.The New India Assurance Company Ltd.,
No.1, Bharathi Road,
Arcot Woodlands Building,
Cuddalore.

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the Decree and Judgement dated 25.03.2021 made in M.C.O.P.No.1729 of 2017 on the file of the Motor Accident Claims Tribunal, I Additional District & Sessions Judge, Cuddalore.

For Appellant : Mr.L.Ramanathan.

JUDGEMENT

These appeals are filed challenging the common award passed in M.C.O.P.Nos.1729 and 1730 of 2017 by the Motor Accidents Claims Tribunal, I Additional District & Sessions Judge, Cuddalore.



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2. C.M.A.No.1271 of 2022 is filed challenging the award passed in M.C.O.P.No.1730 of 2017. C.M.A.No.1272 of 2022 is filed challenging the award passed in M.C.O.P.No.1729 of 2017. The facts in brief are as follows.

3. **M.C.O.P.No.1730 of 2017:** This petition is filed by the legal heirs of one deceased N.Mansoor @ Mansoor Hak, claiming compensation of a sum of Rs.25,00,000/- for the death caused to the said N.Mansoor. It is their case that on 24.12.2016 at about 12.50 pm when the deceased was driving the auto belonging to the 1st respondent therein, bearing registration no.TN 67 AU 2891 near Aruppukottai, the bus belonging to the appellant transport corporation, which is driven in a rash and negligent manner and at high speed hit the auto, as a result of which the deceased Mansoor sustained grievous injuries and died on the very spot. His parents, respondents 1 and 2 herein would contend that he was working as a Driver and earning a sum of Rs.15,000/- per



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month.

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4. M.C.O.P.No.1729 of 2017: This petition is filed by the wife, children and mother (respondents 1 to 4 herein) of deceased D.Mobasak @ Mubarak Ali, who was traveling as a passenger in the auto belonging to the 1st respondent / 5th respondent herein. It is their case that on 24.12.2016 at about 12.50 pm when the deceased was traveling in the auto belongs to the 1st respondent therein, bearing registration no.TN 67 AU 2891 near Aruppukottai, the bus belonging to the appellant transport corporation, which is driven in a rash and negligent manner and at high speed hit the auto, as a result of which the deceased Mobasak sustained grievous injuries and died on the very spot. Respondents 1 to 4 had claimed a compensation of Rs.50,00,000/-. It is their case that the deceased Mobasak was working as a Manager in Namakkal Transport and was earning a monthly income of Rs.25,000/-.

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5. The appellant transport corporation had filed a counter denying the fact that the accident had occurred on account of the negligence on the part of the driver of their bus and on the contrary would submit that it was the deceased auto driver, who had driven the same in a rash and negligent manner. Since he had suddenly turned from left to right, he had lost control of the vehicle and as a result dashed the front left side of the bus. The appellant had also denied the quantum of compensation stating that the same was excessive.

6. By Order dated 25.03.2021, the Tribunal below has held negligence solely on the driver of the appellant's bus and a sum of Rs.17,16,500/- was awarded to the claimants in M.C.O.P.No.1729 of 2017 and Rs.11,84,000/- to the claimants in M.C.O.P.No.1730 of 2017. The appellant transport corporation has challenged the same only on the ground of quantum.



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7. As regards the petition in M.C.O.P.No.1730 of 2017, the Tribunal below has fixed a notional income of just Rs.7,500/- as against a sum of Rs.15,000/- as stated by the claimants. To this 40% has been added towards future prospects and 50% has been deducted towards personal expenses. The annual income is therefore worked out to a sum of Rs.63,000/-, to which a multiplier of 18 has been applied. Under the conventional head of Loss of Love and Affection, the Tribunal only awarded a sum of Rs.20,000/- to the parents contrary to the dicta laid down in the case reported in **2017 (2) TNMAC 609 – National Insurance Company Vs. Pranay Sethi & others.** The compensation awarded is very reasonable and I see no reason to reverse the same.

8. In the case of claimants in M.C.O.P.No.1729 of 2017, the Tribunal below has not considered the documents filed by the



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claimants to show the employment and salary of the deceased Mobasak but has fixed the notional income of Rs.8,500/- to which future prospects at the rate of 40% has been added and $\frac{1}{4}$ th of the income has been deducted towards personal expenses and after adding amounts under the conventional heads, the Tribunal has arrived at the award of Rs.17,16,500/-. The same appears to be very reasonable and the appellant transport Corporation has not provided any reason for reconsidering the same.

9. In the result, the Civil Miscellaneous Appeals stand dismissed. The appellant transport corporation is directed to deposit the award amount along with interest and costs, less the amount already deposited within a period of six weeks from the date of receipt of a copy of this Judgement, to the credit of M.C.O.P.Nos.1729 & 1730 of 2017. On such deposit, the claimants in M.C.O.P.No.1271 of 2022 are permitted to withdraw the award amount, after adjusting the amount, if any,



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already withdrawn, by filing necessary application before the Tribunal.

As regards C.M.A.No.1272 of 2022, the major claimants are permitted to withdraw the award amount and the share of the minor claimants, namely, the 2nd and 3rd claimants is directed to be deposited in Fixed Deposit in any one of the Nationalised Banks till they attain majority. On such deposit, the 1st claimant being the mother of the minor claimants is permitted to withdraw the accrued interest once in every three months for the welfare of the minor appellants. Consequently, connected Civil Miscellaneous Petitions are closed. No costs.

16.06.2022

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Index: Yes/No

Speaking order/non-speaking order

To,

The Motor Accident Claims Tribunal,
I Additional District & Sessions Judge,
Cuddalore.

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P.T.ASHA, J.,

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