



CMA(MD) No.701 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Reserved On : 12.10.2022

Delivered On : 26.10.2022

CORAM:

THE HONOURABLE MRS.JUSTICE R.THARANI

C.M.A(MD)No.701 of 2013

The Managing Director,

M/s.Tamilnadu State Transport Corporation Ltd.,

Kumbakonam.

.... Appellant / Respondent

Vs.

1.Kalaiselvi

2.A.Tamilmani

3.R.Uma

4.Minor.Anusuya

(Minor rep. through her mother

and guardian – R1 herein)

... Respondents / Petitioners

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree, passed in M.C.O.P. No.43 of 2009, dated 05.02.2010, on the file of the Motor Accident Claims Tribunal cum Principal District Judge, Tiruchirappalli.

For Appellant : Mr.M.Prakash

For Respondents : No appearance



CMA(MD) No.701 of 2013

J U D G M E N T

WEB COPY

This Civil Miscellaneous Appeal is filed against the award, passed in M.C.O.P. No.43 of 2009, dated 05.02.2010, on the file of the Motor Accident Claims Tribunal cum Principal District Judge, Tiruchirappalli. The appellant herein is the respondent and the respondents herein are the claimants in the main claim petition.

2. Brief substance of the petition, in M.C.O.P. No.43 of 2009, is as follows:-

On 12.05.2008, at about 2.30 pm., while the deceased-Ashok was riding a motorcycle bearing Registration No.TN-59-2524 along the Trichy-Thanjavur main road, Tiruverumbur over bridge, the respondent's bus bearing Registration No.TN-49-N-1891 came in a rash and negligent manner from the opposite direction, dashed against the motorcycle. The deceased died on the spot. The deceased was 24 years, at the time of accident and he was having heavy vehicle driving licence and was running a Transport company under the name and style of "ANT Transport". He was the owner cum driver of the TATA mini lorry and he was earning Rs.20,000/- per month. The petitioners are his dependents and they claimed a sum of Rs.20,00,000/- as compensation.



3. Brief substance of the counter filed by the respondent in M.C.O.P.No.43 of 2009, is as follows:

The manner of accident as narrated in the petition is wrong. The respondent's driver was driving the vehicle in a slow and careful manner, keeping the extreme left side of the road. The deceased came in a motorcycle from the opposite direction and in an attempt to overtake a lorry, without observing the traffic, he dashed against the bus. The deceased alone was responsible for the accident. The owner and insurer of the motorcycle are necessary parties to the case. The age, occupation and income of the deceased are all denied. The amount claimed is excessive.

4. On the side of the claimants, 2 witnesses were examined and 14 documents were marked. On the side of the respondent, 1 witness was examined and 1 document was marked. After considering both sides, the Tribunal awarded a sum of Rs.10,00,000/- as compensation with interest at the rate of 9% p.a. to be paid by the respondent/Transport Corporation.

5. Against the award, the respondent /appellant has filed this appeal on the following grounds:-



CMA(MD) No.701 of 2013

The Tribunal ought to have fixed the monthly income as Rs.4,500/-. The Tribunal is wrong in fixing the loss of income as Rs.9,35,000/-. The Tribunal is wrong in awarding Rs.20,000/- towards loss of estate. The total award amount is excessive.

6. On the side of the appellant, it is stated that the Tribunal has fixed interest at the rate of 9% p.a., which is excessive and prayed the same to be reduced to 7.5% p.a.

7. Copy of the F.I.R. was marked as Ex.A1. M.V.I. reports were marked as Ex.A3 and Ex.A4. Judgment of the criminal court in C.C.No. 174 of 2009 was filed on the side of the respondent as Ex.B1. Judgment of the criminal Court is not binding on the Tribunal in fixing the negligence. On the basis of the evidence of P.W.2 and on the basis of Ex.B1, the Tribunal has fixed the liability on the driver of the bus.

8. On the side of the claimants, it is claimed that the deceased was earning Rs.20,000/- as owner cum driver of a Van. Document regarding the ownership of the van was marked as Ex.A5 to A13. From the above said documents, it is seen that the deceased was the owner cum driver of



the van. The Tribunal has fixed the monthly income at Rs.6,500/- per month, which is reasonable.

9. The Tribunal adopted multiplier '18', after deducting 1/3rd of the amount towards his own expenses, fixed the loss of income at Rs.9,35,000/-. The Tribunal has awarded Rs.20,000/- towards loss of love and affection, Rs.20,000/- towards loss of consortium, Rs.20,000/- towards loss of estate and Rs.5,000/- towards funeral expenses, which are all reasonable. A verification of the records reveals that the Tribunal fixed the rate of interest at 9% pa., which is excessive and the rate of interest is hereby reduced to 7.5% p.a., from the date of filing of the claim petition, till the date of deposit.

10. The orders of the Tribunal is modified and the claimants are entitled to only 7.5% p.a., for the award amount from the date of filing of the claim petition, till the date of deposit of the award amount.

11. With the above observation, this Appeal is partly allowed.

(i) The claimants /appellants are entitled to Rs.10,00,000/- with interest **at the rate of 7.5% p.a.** as compensation.



CMA(MD) No.701 of 2013

(ii) The appellant herein – Transport Corporation, is directed to deposit the entire compensation of Rs.10,00,000/- (if not already deposited) together with interest at the rate of **7.5% per annum** from the date of claim petition till the date of deposit and with costs, within a period of eight weeks from the date of receipt of a copy of this order.

(iii) On such deposit being made by the Transport Corporation, the respondents 1 to 3 / major claimants are permitted to withdraw their shares with proportionate interest and costs as apportioned by the Tribunal, on filing of proper petition before the Tribunal, less any amount, if already withdrawn by them.

(iv) The Tribunal is directed to deposit the share of the minor claimant / fourth respondent herein in any one of the Nationalised Banks, in a Fixed Deposit scheme, till she attains majority. The first respondent herein, who is the mother and guardian of the minor claimant, is permitted to withdraw the accrued interest once in three months directly from the bank, only for the welfare of minor. The claimants are not entitled for interest for the default period, if there is any. No costs.

26.10.2022

Ls

6/8



WEB COPY



CMA(MD) No.701 of 2013

To

- 1.The Principal District Judge,
Motor Accident Claims Tribunal,
Tiruchirappalli.

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



WEB COPY



CMA(MD) No.701 of 2013

R.THARANI,J.

Ls

Pre-delivery Judgment made in

C.M.A(MD)No.701 of 2013

26.10.2022