



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.02.2022

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

C.M.A(MD)No.168 of 2022
and
CMP(MD) No.1491 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation Ltd
No.3/137, Salamedu,
Vazhuthareddy Post
Villapuram Taluk,
Villupuram District.

... Appellant /2nd Respondent

Vs

1.Sarala Devi
2.Minor Duraiukesh
3.Minor Hema Sri
(The Minor Respondents 2 and 3 represented through their
natural guardian/next friend mother of the first respondent)

4.R.Dhanalakshmi

5.S.Suresh ... Respondents 1 to 4/Petitioners

(The fifth respondent is the driver of the
Appellant and that given up)

6.Ravindran

7.IFFCO TOKIO General Insurance Co.Ltd.,
through its Manager,
82, Preetham Plaza 1st Floor,
Bye Pass Road,
Ponmeni
Madurai-16. ... Respondents 5 to 7/ Respondents 1,3 & 4

PRAYER: Civil Miscellaneous Appeals filed under Section 173 of Motor Vehicles Act, to allow this appeal, set aside the award and decree made in MCOP No.1289 of 2017 dated 10.12.2020 on the file of the Motor Accident Claims Tribunal/District and Sessions Judge, Communal clash Cases Court, Madurai.

For Appellant

:Mr.P.Prabhakaran



J U D G M E N T

This Civil Miscellaneous Appeal is preferred against the award and decree passed by the learned Motor Accident Claims Tribunal/ District and Sessions Judge, Communal Clash Cases Court, Madurai, made in M.C.O.PNo.1289 of 2017, dated 10.12.2020.

2.The appellant is the Transport Corporation. It is submitted by the learned counsel for the appellant that the deceased was a billion rider in the motor cycle, which was involved in the accident. The rider of the motor cycle did not have any licence. It is further submitted that the notional income of the deceased was fixed at Rs.9,000/- and it is erratic. It is seen that the learned Presiding Officer of the Tribunal has perused the salary certificate of the deceased, produced by the Branch Manager of the Crystal Bottles Company, where the deceased was working at the time of the accident. The monthly income drawn by the deceased at the time of the accident was at Rs.30,000/-. However, the learned Judge has considered all the documents and other circumstances of the case, fixed the notional income at Rs.9,000/-, which, in my opinion, is correct.

3.The deceased was 37 years at the time of accident and appropriate multiplier method has been adopted. The tribunal has also appreciated the manner in which the accident was taken place. And recorded a finding that the bus had hit against the back of the motorcycle on its extreme eastern side. In this connection, charge sheet has also been filed against the driver of the bus in a criminal case. So, no contributory negligence can be attributed to the driver of the two wheeler. Despite it is claimed that the deceased did not wear helmet that was not substantiated before the tribunal.

4.In such circumstances, I find no valid ground for this appeal. Hence, the Civil Miscellaneous Appeal is dismissed by confirming the order and decree, dated 10.12.2020 passed in M.C.O.P.No.1289 of 2017 on the file of the Motor Accidents Claims Tribunal /District and Sessions Judge, Communal Clash Cases Court, Madurai. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

cp

<https://hcservices.ecourts.gov.in/hcservices/>



To

1.The Motor Accident Claims Tribunal/District and Sessions Judge,
Communal clash Cases Court,
Madurai.

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-8600[F] dated 25/02/2022)

C.M.A(MD)No.168 of 2022 and
CMP(MD) No.1491 of 2022
25.02.2022

RD(11.03.2022) 3P 3C