



C.M.A.(MD)No.312 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 06.07.2022

Delivered On : 20.07.2022

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.M.A.(MD)No.312 of 2019

The Managing Director
Tamil Nadu State Transport Corporation,
Kudanthai Division – I,
Kumbakonam, Kumbakonam Town,
Thanjavur District.

.. Appellant / Respondent

Vs.

Ramalakshmi

.. Respondent / Petitioner

Prayer: This Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, against the award and decree made in M.C.O.P.No.55 of 2011, dated 18.09.2018, on the file of the Motor Accident Claims Tribunal / III Additional District Court at Pattukkottai.

For Appellant

: Mr.P.Prabhakaran

For Respondent

: Mr.S.Deenadhayalan



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JUDGMENT

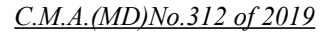
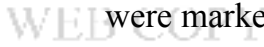
WEB COPY This Civil Miscellaneous Appeal has been filed against the award made in M.C.O.P.No.55 of 2011, dated 18.09.2018, on the file of the Motor Accident Claims Tribunal / III Additional District Court at Pattukkottai. The appellant herein is the respondent and the respondent herein is the claimant in the original M.C.O.P. Petition.

2. Brief substance of the petition in M.C.O.P.No.55 of 2011 is as follows :-

On 27.04.2010, at about 3.30 am., when the deceased was riding his bi-cycle along the extreme left of the Pattukottai-Thanjavur Road, a bus bearing registration No.TN-49-N-1786 was driven by its driver in a rash and negligent manner dashed against the deceased from behind. The deceased died on the spot. The deceased was unmarried and he was residing with the petitioner, who is his sister. The deceased was doing iron scrap business and was earning Rs.10,000/- per month. The petitioner claimed a sum of Rs. 15,00,000/- as compensation.

3. Brief substance of the counter filed by the respondent in M.C.O.P.No.55 of 2011 is as follows:-

The bus was driven by its driver in a careful and cautious manner. It was the deceased, who suddenly crossed the road, without giving any signal and invited the accident. The petition is to be dismissed.



5. Against the order, the appellant preferred this appeal this appeal on the following grounds :

6. On the side of the appellant, it is stated that the deceased was liable for contributory negligence. Without giving any signal, the deceased moved to the right side of the road and that the deceased contributed to the accident.

7. On the side of the respondent, it is stated that the bus dashed against the deceased from behind and there is no negligence on the deceased. The appellant admitted the liability to the tune of Rs.4,00,000/- hence, the appellant can not question the liability at this stage.



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8. P.W.2 was examined as the eye witness. F.I.R registered against the bus driver. On the basis of the evidence of P.W.2 and on the basis of Ex.P1, the Tribunal has fixed the liability on the bus driver. The bus hit against the bi-cycle from the back side, hence, the bus driver is liable for the accident.

9. Regarding the quantum, the Tribunal has fixed the notional monthly income at Rs.6,500/-, which is reasonable. On the basis of Ex.P4-post mortem certificate, the Tribunal has fixed the age of the deceased as 50 years and applied multiplier '13'. The accident took place in the year 2010. Ex.P.6 was the family card of the deceased for the year 2005-2009. In Ex.P6, the age of the deceased was mentioned as 50 years, which reveals that at the time of accident, the age of the deceased was more than 50 years. As the age of the deceased is more than 50 years, the claimant is not entitled to future prospects. The monthly income fixed by the Tribunal is Rs.6,500/- which is reasonable. As per **Sarla Verma's case** multiplier '11' is applicable, for the death of a person more than 50 years old. Hence, the loss of income is calculated at Rs.4,29,000/- ($\text{Rs.6,500/-} \times 12 \times 11 = \text{Rs.4,29,000/-}$) and the award under various heads are reasonable. The claimant is entitled for a sum of Rs. 4,64,000/- as total compensation, which reads as follows:-

For loss of income	:	Rs.4,29,000/-
For transport expenses	:	Rs. 5,000/-
For funeral expenses	:	Rs. 15,000/-



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For loss of estate : Rs. 15,000/-

Total compensation : Rs.4,64,000/-

10. The Civil Miscellaneous Appeal is partly allowed. No costs.

(i) The quantum of compensation awarded by the Tribunal is reduced from Rs.6,68,360/- to Rs.4,64,000/- .

(ii) The appellant - Transport Corporation, is directed to deposit the entire compensation of Rs.14,64,000/- (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 respondent / claimant is permitted to withdraw the entire award amount with interest and costs, on filing of proper petition before the Tribunal, less any amount, if already withdrawn by him.

20.07.2022

Index : Yes/No

Internet : Yes/No

Ls



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R. THARANI, J.

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Note : In view of the present lock down owing to COVID – 19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Motor Accident Claims Tribunal /

III Additional District Court

Pattukkottai.

2.The Section Officer,

V.R. Section,

Madurai Bench of Madras High Court,

Madurai.

Pre-delivery Judgment made in
C.M.A.(MD)No.312 of 2019

20.07.2022