



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2022

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD)No.773 of 2021

and

C.M.P. (MD)Nos.7098 and 8868 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Bye Pass Road,
Madurai - 16.

...Appellant/Respondent

Vs.

1.Sundaravalli
2.Sivaprakash

...Respondent/Petitioners

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act 1988, to set aside the judgment and decree, dated 13.02.2020 passed in M.C.O.P.No.1427 of 2017 on the file of the Motor Accidents Claims Tribunal/III Additional District Judge (P.C.R), Madurai.

For Appellant :Mr.K.Sudalaiyandi
For Respondents :Mr.M.Ashok Kumar

JUDGMENT

This Civil Miscellaneous Appeal has been filed to set aside the judgment and decree, dated 13.02.2020 passed in MCOP.No.1427 of 2017 on the file of the Motor Accidents Claims Tribunal/III Additional District Judge (P.C.R), Madurai.

2.It is a case of fatal accident. On 21.06.2017 at about 12.45 hours while the deceased was riding the motorcycle bearing Registration No.TN-67-T-1341 from south to north keeping extreme left side of Thirumangalam - Sholavandan Main Road at a moderate speed by observing necessary traffic rules in nearing Indra Colony, Raja Kovil Oorani, the respondent's passenger bus bearing Registration No.TN-58-N-0539 came from the opposite direction in a rash and negligent manner without following traffic rules and regulations and without sounding horn, dashed against the deceased motorcycle. Due to the said accident, the deceased sustained multiple grievous injuries and died on the spot. A criminal case under Sections 279, 304(A) IPC was registered by Thirumangalam Town Police Station in Cr.No.368 of 2017.



3.The claimants have filed a claim petition in M.C.O.P.No.1427 of 2017 on the file of the Motor Accident Claims Tribunal/III Additional District and Sessions Judge (P.C.R.), Madurai, seeking compensation of Rs.20,00,000/-.

4.Before the Tribunal, on the side of the claimants, two witnesses were examined as P.W.1 and P.W.2 and marked seventeen documents as Exs.P1 to P8. On the side of the respondent, one witness was examined as R.W1 and no document was marked.

5.The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the claimants and the respondents and also on appreciating the evidences on record, held that the accident occurred only, due to the rash and negligent driving of the driver of the appellant's bus and directed the appellant herein to pay a sum of Rs.13,30,000/- as compensation with 9% interest.

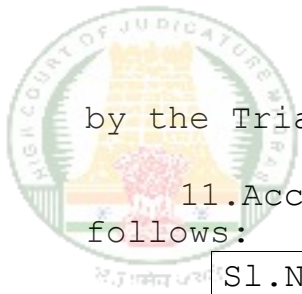
6.Against which, the appellant/State Transport Corporation Ltd., has filed this present appeal to set aside the award of compensation passed by the Tribunal.

7.Heard Mr.K.Sudalaiyandi, learned counsel appearing for the appellant and Mr.M.Ashok Kumar, learned counsel appearing for the respondents.

8.The learned counsel for the appellant contended that at the time of accident, the deceased, who is the rider of the two wheeler, did not possess any valid driving license and did not wear helmet. Due to the head injury, the deceased died. So, the Tribunal ought to have fixed 10% liability on the deceased. But the Tribunal has fixed entire negligence on the part of the driver of the appellant Transport Corporation. Further, the compensation of Rs.13,30,000/- at 9% interest awarded by the Tribunal is excessive.

9.Per contra, the learned counsel appearing for the respondents/petitioners has contended that the Tribunal, after considering all the circumstances available in the present petition, has rightly awarded Rs.13,30,000/- as compensation and therefore, the award passed by the Tribunal is perfectly correct and the same needs no interference.

10.A perusal of records, it is seen that at the time of accident the deceased did not wear helmet and possess valid driving license. Hence, 10% liability fixed on the deceased. The Tribunal has granted loss of consortium only to the first petitioner. Hence, this Court awards Rs.40,000/- each towards loss of consortium to the petitioners. Further the tribunal has awarded 9% interest, which is very high and it is modified to 7.5% from the date of claim petition till the date of realization. All the other heads awarded



by the Trial Court are hereby confirmed.

11. Accordingly, the claimants are entitled for compensation as follows:

Sl.N o.	Compensation heads	Details of amount
1.	Loss of Income	Rs.12,60,000/-
2.	Loss of Consortium (first and second petitioners)	Rs. 80,000/-
3.	Loss of Estate	Rs. 15,000/-
4.	Funeral Expenses	Rs. 15,000/-
	Total	Rs.13,70,000/-

12. In the result,

(i) The Civil Miscellaneous Appeal is partly allowed.

(ii) The quantum of compensation awarded by the Tribunal is enhanced from Rs.13,30,000/- to Rs.13,70,000/- with interest at the rate of 7.5% per annum.

(iii) The appellant/State Transport Corporation Ltd., is directed to deposit 90% of compensation amount i.e., Rs.12,33,000/- (Rupees Twelve lakhs thirty three thousand only), less the amount already deposited, together with interest at the rate of 7.5% per annum from the date of claim petition till the date of deposit to the credit of MCOP.No.1427 of 2017 on the file of the Motor Accidents Claims Tribunal/III Additional District and Sessions Judge (PCR), Madurai, within a period of six weeks from the date of receipt of a copy of this order.

(iv) On such deposit being made, the respondents/claimants are entitled to withdraw their respective share as per the ratio of apportionment made by the tribunal. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

vsd

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 Accidents Claims Tribunal/
III Additional District Judge (P.C.R),
Madurai.

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

+1 CC to M/s.K.SUDALAIYANDI, Advocate (SR-614[F] dated 06/01/2022)

+1 CC to M/s.M.ASHOKKUMAR, Advocate (SR-479[F] dated 05/01/2022)

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