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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2022

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

C.M.A(MD)No.999 of 2022

and

C.M.P(MD) No.9919 of 2022

M/s.Tamil Nadu State Transport Corporation Limited,
Represented through the Managing Director,
Bye Pass Road,
Madurai.

... Appellant

VS

1.Murugan

2.Pasupathi

3.Minor.Ajithkumar

4.Minor.Navin Kumar

... Respondents

(The respondents 3 and 4 are minors represented
by their Mother/Guardian, the second respondent)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the
Motor Vehicles Act, to set aside the award and decree made in
M.C.O.P.No.349 of 2014, dated 31.07.2017, on the file of the Motor
Accident Claims Tribunal/Special District Court, Madurai.



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For Appellant : Mr.P.Prabhakaran

For Respondents : Mr.N.Sudhakar Nagaraj

JUDGMENT

At the request of both the counsels, the main appeal itself is taken up for hearing. The Transport Corporation is the appellant in the above appeal.

2. The claim petition is filed under Section 163(A) of Motor Vehicles Act, for the death of one Muthu @ Muthukumar, who died in the motor accident, which occurred on 04.09.2013, when he was riding as pillion rider in a two wheeler bearing Registration No.TN-39-R-9969 on Madurai to Dindigul Fourway Road, near Ayyankottai Bharath Petrol Bunk. The said two wheeler collided with the respondent bus, as a result of which, the deceased sustained multiple grievous injuries and succumbed to the accident. The deceased was aged about 21 years at the time of the accident and his father, mother and siblings filed a claim



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petition under Section 163(A) of the Act for compensation of Rs. 6,00,000/- with interest.

3. According to the claimants/respondents, the deceased was earning a sum of Rs.3,000/- per month as a coolie and he was supporting the family with his income. The further case of the claimants was that the deceased was the only breadwinner of the family.

4. On the other hand, the Transport Corporation denied the income of the deceased and also denied the legal heirship of the claimants. The Transport Corporation, therefore, prayed for the dismissal of the claim petition.

5. The Tribunal, on an appreciation of entire evidence on record, awarded the compensation of Rs.5,05,000/-, taking the income of the deceased as Rs.1,500/-, after deducting 50% from the income of Rs.3,000/- toward personal expenses of the deceased. The Tribunal adopted the multiplier of 13 and arrived at Rs.2,34,000/- towards loss of estate. As far as the conventional damages are concerned, the Tribunal awarded a sum of Rs.2,50,000/- towards loss of consortium to the parents and the siblings put together and Rs.10,000/- towards funeral expenses,



Rs.10,000/- for transport charges and Rs.1,000/- for loss of amenities.

The Tribunal further awarded an interest at the rate of 7.5%. Aggrieved by the judgment and decree of the Tribunal, the appellant has filed the appeal.

6.This Hon'ble Court on 07.01.2022 granted an order of interim stay on condition to deposit the entire award amount along with accrued interest and costs on or before 08.12.2022. The learned counsel for the appellant/transport corporation submitted that the interim order was not complied with and prayed that in any event the main appeal itself may be taken up for hearing.

7. The learned counsel for the respondents has no objection to the final disposal of the appeal.

8. The learned counsel for the appellant/Transport Corporation submitted that as the petition was filed under Section 163-A of Motor Vehicles Act, negligence cannot be an issue. The learned counsel further submitted that the compensation towards loss of love and affection and loss of consortium were on the higher side and that the compensation



towards funeral expenses, transport expenses and loss of articles were also on higher side. The learned counsel further submitted that the compensation of Rs.2,34,000/- towards loss of income was without any legal basis.

9. The learned counsel for the respondents reiterated that as this is an application filed under Section 163(A) of the Motor vehicles Act proof of negligence was not necessary. The counsel further submitted that though no document was filed in support of the income of the deceased, the Tribunal had taken the meagre amount of Rs.3,000/- as monthly income and after deducting 50% for the personal expenses of the deceased, has awarded a sum of Rs.2,34,000/- towards loss of income, which is very fair and reasonable. The learned counsel further submitted that the multiplier adopted by the Tribunal was erroneous in as much as the Tribunal had taken the age of the father whereas the appropriate multiplier would be 13 as the multiplier relevant to the age of the deceased should be adopted.

10. I have gone through the entire materials available on record. In my view, the Tribunal has rightly fixed the compensation. Considering



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that the deceased was a coolie, the Tribunal has taken the income of the deceased as Rs.3,000/- and deducted 50% toward personal expenses and arrived at a compensation of Rs.2,34,000/- towards loss of income, which cannot be faulted. Though the compensation awarded towards consortium is on the higher side, the same is set off considering the multiplier adopted is only 13, whereas the multiplier to be adopted is 18. For all the above reasons, I do not see justifiable reasons for interfering with the award of the Tribunal and therefore, the same is confirmed.

11. In the result, this Civil Miscellaneous Appeal is dismissed by confirming the award and decree, dated 31.07.2017, made in M.C.O.P.No.349 of 2014, on file of the Motor Accident Claims Tribunal/Special District Court, Madurai. The appellant / Transport Corporation is directed to deposit the entire award amount, less the amount already deposited, with accrued interest and costs, within a period of eight weeks from the date of receipt of a copy of this Judgment. On such deposit being made, the claimants 1 and 2 are permitted to withdraw the amount awarded with accrued interest and costs, as apportioned by the Tribunal, by filing an application before the Tribunal. So far as the share of the minors are concerned, the same shall be



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deposited in a nationalised bank till they attain majority and the second respondent / mother of the minor claimants is permitted to withdraw the interest accrued in the deposit once in three months. No costs. Consequently, connected miscellaneous petition is closed.

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Index :Yes/No
Internet :Yes/No
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To

- 1.The Motor Accident Claims Tribunal/Special District Court,
Madurai.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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N.MALA.J.

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JUDGMENT MADE IN
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and
C.M.P(MD) No.9919 of 2022

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