



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.01.2022

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.M.A. (MD) .No.696 of 2017

and

C.M.P (MD) No.7272 of 2017

The Managing Director,
Tamilnadu State Transport Corporation
(Villupuram) Ltd.,
Thiruvannamalai.

...Appellant/5th Respondent

Vs.

1.Santhanam
2.Maalai
3.Gnanavadivu
4.Ramalakshmi

...Respondent Nos.1 to 4/
Petitioners

5.Muthuraman

(R5 IS THE DRIVER OF THE APPELLANT
AND GIVEN UP)

6.The Managing Director,
Tamilnadu State Transport Corporation,
Chennai Division Ltd., Chennai.

(R6 IS A SISTER CORPORATION AND THAT GIVEN UP)

7.Kumar

8.The New India Assurance Co.Ltd.,
M.G.Road,
Mumbai

...Respondent Nos.6 to 8/
Respondent Nos.3 & 4

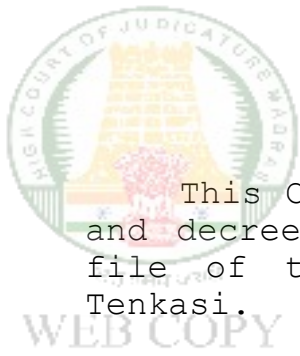
PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award and decree made in MCOP.No.109 of 2010, dated 06.01.2017 on the file of the Motor Accidents Claims Tribunal/Special Sub Court, Tenkasi.

For Appellant :Mr.P.Prabhakaran

For R1 to R4 :Mr.R.J.Karthick

For R5 to R7 :No Appearance

For R8 :Mr.B.Vijayakarthiskeyan



JUDGMENT

This Civil Miscellaneous Appeal is filed to set aside the award and decree made in MCOP.No.109 of 2010, dated 06.01.2017 on the file of the Motor Accidents Claims Tribunal/Special Sub Court, Tenkasi.

2.On 31.10.2009 at about 08.50 a.m. while the deceased and others were travelling in a TATA Sumo, bearing Registration No.TN-07-AY-3790, driven by one Saranraj from Orakkadam to Tambaram main road and when they came near Seerappanchery, a bus bearing Registration No.TN-23-N-1738 belonging to the 6th respondent herein, driven by its driver in a rash and negligent manner, hit the TATA Sumo. As a result of which, the TATA Sumo vehicle was crushed and the deceased and some others were died on the spot.

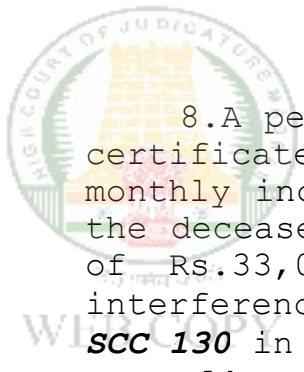
3.The claimants have filed a petition in M.C.O.P.No.109 of 2010 on the file of the Motor Accidents Claims Tribunal, Principal Subordinate Court, Tenkasi, seeking compensation of Rs.60,00,000/-.

4.Before the Tribunal, on the side of the claimants, three witnesses were examined as P.W.1 to P.W.3 and marked twenty four documents as Exs.P.1 to P.24. On the side of the respondents, one witness was examined as R.W.1 and no document has been marked.

5.The Tribunal, after considering the pleadings, oral and documentary evidences and the arguments of the counsel for the claimants and the respondent and also on appreciating the evidences on record, held that the accident had occurred only due to the rash and negligent driving of the driver of the first respondent and directed the appellant herein to pay a sum of Rs.35,59,552/- as compensation. Against which, the appellant/fifth respondent has filed this present appeal to set aside the award of compensation granted by the Tribunal.

6.The learned counsel for the appellant contended that the TATA Sumo bearing Registration No.TN-07-AY-3790 driven by its driver came in a rash and negligent manner without following the traffic rules and regulations and dashed against the front side of the appellant's bus and invited the accident. So, the driver of the TATA Sumo was solely responsible for the accident. But Tribunal erroneously fixed the entire negligence on the part of the appellant's Transport Corporation and also awarded an exorbitant amount towards compensation to the claimants.

7.The learned counsel appearing for the claimants contended that the Tribunal, after considering all the aspects of the cases, fixed the negligence on the part of the driver of the bus and awarded a just compensation and the same cannot be said to be on the higher side.



8.A perusal of records show that on the basis of Ex.P19- salary certificate of the deceased, the Tribunal has fixed Rs.15,322/- as monthly income and also 50% added towards future prospectus. Since the deceased was working as a permanent employee, so loss of income of Rs.33,09,552/- awarded by the Tribunal is correct and no interference is required. As per judgment reported in **(2018) 18 SCC 130** in the case of **Magma General Insurance Company Ltd, Vs. Nanu Ram alias Chuhru Ram and others**, sisters are entitled for loss of love and affection and loss of consortium. The Tribunal has not granted separate amount for loss of consortium, but Rs.2,00,000/- awarded towards loss of love and affection, which is reasonable. Further the Tribunal has awarded Rs.25,000/- towards Transportation and Rs.25,000/- towards funerals expenses, which are very high. Hence this Court reduce the same and awarded Rs.15,000/- towards Transportation and Rs.10,000/- towards funeral expenses. Except the above, all the other terms of the award passed by the Tribunal is confirmed.

9. In view of the above, this Court modifies the award of the Tribunal by reducing the compensation as under:

S. No.	Head	Amount granted by this court
1.	Loss of income	Rs. 33,09,552/-
2.	Loss of Love and Affection	Rs. 2,00,000/-
3.	Transportation	Rs. 15,000/-
4.	Funeral Expenses	Rs. 10,000/-
Total		Rs. 35,34,552/-

10.In the result,

(i)The Civil Miscellaneous Appeal is partly allowed.

(ii) The quantum of compensation awarded by the Tribunal is reduced from Rs.35,59,552/- to Rs.35,34,552/-.

(iii)The appellant/Tamilnadu State Transport Corporation is directed to deposit the reduced compensation amount i.e., Rs.35,34,552/- (Rupees Thirty five lakhs thirty four thousand five hundred and fifty two 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 M.C.O.P.No.109 of 2010 on the file of the Motor Accidents Claims Tribunal, Principal Sub Court, Tenkasi, within a period of six weeks from the date of receipt of a copy of this order.



(iv) On such deposit being made, the claimants are entitled to withdraw the same as per the order passed by the Tribunal after following due process of law. The ratio of apportionment made by the Tribunal shall be kept intact. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

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/Principal Sub Judge,
Tenkasi.

2. The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2C)

+1 CC to M/s.B.VIJAY KARTHIKEYAN, Advocate (SR-2886[F] dated 28/01/2022)

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-2921[F] dated 28/01/2022)
C.M.A.(MD).No.696 of 2017
and
C.M.P (MD)No.7272 of 2017
28.01.2022

SP(CO)

GC(11.03.2022) 4P 6C