



C.M.A.(MD)No.910 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : 28.07.2022

Delivered On : 10.08.2022

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

C.M.A.(MD)No.910 of 2019

The Managing Director

Tamil Nadu State Express Transport Corporation,

office at Pallavan Road,

Chennai.

.. Appellant / Respondent

Vs.

1.Meenatchi

2.Roserani

.. Respondents / Petitioners

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.842 of 2017, dated 01.07.2019, on the file of the Motor Accident Claims Tribunal / Principal District Court, Dindigul.

For Appellant

: Mr.P.Prabhakaran

For Respondents

: Mr.C.K.M.Appaji



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JUDGMENT

This Civil Miscellaneous Appeal has been filed against the award, made in M.C.O.P.No.842 of 2017, dated 01.07.2019, on the file of the Motor Accident Claims Tribunal / Principal District Court, Dindigul. Claims Tribunal / Special Sub Court, Tirunelveli. The appellant herein is the respondent and the respondents herein are the claimants in the original M.C.O.P. Petition.

2. Brief substance of the claim petition in M.C.O.P.No.842 of 2017, is as follows:

On 05.05.2017, at about 4.00 pm., when the deceased - Ushadevi was crossing the road, a bus bearing Registration No.TN-01-AN-0063 came in a rash and negligent manner, without blowing horn, hit against the deceased. The deceased was aged about 65 years and was working as an Agricultural cooli and was earning Rs.7,000/- per month. The petitioners are her dependents and they claimed a sum of Rs.7,00,000/- as compensation.

3. Brief substance of the counter filed by the respondent in M.C.O.P.No. 842 of 2017, is as follows:



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The manner of accident is denied. The accident occurred only due to the negligence of the deceased, who crossed the road, without noticing the traffic. It was the deceased, who fell down and she sustained injuries. The respondent was not responsible for the accident. The petition is to be dismissed.

4. On the side of the petitioners, 2 witnesses were examined and 5 documents were marked. On the side of the respondent, 1 witness was examined and no document was marked. The Tribunal after considering both sides, awarded a sum of Rs.3,42,000/- as compensation.

5. Against the award, the appellant approached this Court by way of this appeal.

6. On the side of the appellant, it is stated that the Tribunal has failed to fix the entire negligence on the deceased pedestrian, who was walking near the centre media, in a rash and negligent manner. The Tribunal is wrong in adopting multiplier '7'. As per the post mortem certificate-Ex.P2 and as per the death certificate – Ex.P3, the age of the deceased is 67 years and multiplier '5' alone is applicable. The notional income fixed by the Tribunal too high. The tribunal awarded Rs.50,000/- towards loss of love and affection, Rs.15,000/- towards loss of estate, Rs.15,000/-



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towards funeral expenses, Rs.10,000/- towards transport expenses, which are all excessive. The total compensation is excessive.

7. On the side of the respondents / claimants, it is stated that the Tribunal has fixed the age of the deceased as 67 years. The Tribunal has awarded only a meagre amount towards compensation and prayed the appeal to be dismissed.

8. The Tribunal fixed the monthly income at Rs.6,000/-. On verification of the records, it is seen that in the post mortem certificate (Ex.P2) and in the death certificate (Ex.P3), the age of the deceased was mentioned as 67 years. The claimants failed to produce any other documents to prove the age of the deceased. Hence, the age of the deceased is fixed as 67 years.

9. On the side of the respondents / claimants, it is stated that the deceased was earning Rs.7,000/- as an agricultural cooli. There is no proof regarding the income of the deceased. The tribunal has fixed the monthly income as Rs.6,000/-, which is reasonable. It is stated that there is no class-I heir for the deceased. Hence, 50% of the income is deducted for the own expenses of the deceased. After deducting 50%, the deceased might have contributed Rs.3,000/- to the claimants. For 67 years old person, multiplier applicable is only '5'. Hence, the loss of income



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is fixed as Rs.1,80,000/- (Rs.3,000 X 12 X 5 = Rs.1,80,000/-). The Tribunal has awarded Rs.15,000/- towards loss of estate, Rs.50,000/- towards loss of love and affection, Rs.15,000/- towards funeral expenses, Rs.10,000/- towards transport expenses. Considering the fact that the claimants are only sisters and both of them are aged more than 50 years, the award towards loss of love and affection is reduced to Rs.20,000/-. The Tribunal has awarded Rs.15,000/- towards loss of estate for a 67 years old lady, which is unreasonable and the same is deleted. The Tribunal has awarded a sum of, Rs.15,000/- towards funeral expenses and Rs.10,000/- towards transport expenses, which are all reasonable. The total Compensation is calculated as follows:-

Loss of income	: Rs.1,80,000/-
Loss of love and affection	: Rs. 20,000/-
Funeral Expenses	: Rs. 15,000/-
Transport expenses	: Rs. 10,000/-
	
Total Compensation	: Rs.2,25,000/-
	

10. This appeal is partly allowed. The compensation is reduced from Rs.3,42,000/- to Rs.2,25,000/-.

(i) The claimants are entitled to **Rs.2,25,000/-** as compensation.



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(ii) The Transport Corporation is directed to deposit the entire compensation of Rs.2,25,000/- (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. Excess amount, if any, has to be refunded to the appellant.

(iii) On such deposit being made by the Transport Corporation, the respondents / claimants are permitted to withdraw their shares as apportioned by the Tribunal with interest and costs, on filing of proper petition before the Tribunal, less any amount, if already withdrawn by them. The claimants are not entitled for interest for the default period, if there is any. No Costs.

10.08.2022

Index : Yes/No

Internet : Yes/No

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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.



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1.The Motor Accident Claims Tribunal -
Principal District Court,
Dindigul.

2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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R. THARANI, J.

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Pre-delivery Judgment made in
C.M.A.(MD)No.910 of 2019

10.08.2022