



C.M.A.Nos.2114 & 1134 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MR. JUSTICE D.BHARATHACHAKRAVARTHY**

**C.M.A.Nos.2114 & 1134 of 2022
and
C.M.P.No.16405 of 2022**

C.M.A.No.2114 of 2022

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd. (Villupuram Division-I),
Villupuram

... Appellant

Vs.

K.Jayalaxmi

...Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 30.11.2021 made in M.C.O.P.No.546 of 2015 on the file of the Motor Accident Claims Tribunal (Principal District Court), Cuddalore.

For Appellant : Mr.T.Chandrasekaran

For Respondent : Mrs.Ramya V.Rao



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C.M.A.No.1134 of 2022

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J.Karunakaran (Died) S/o Jayaraman

K.Jayalakshmi

..Appellants

Vs.

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd.
No.3/137, Salamedu,
Vazhuthareddy Post,
Villupuram- 605 402

..Respondent

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 30.11.2021 made in M.C.O.P.No.546 of 2015 on the file of the Motor Accident Claims Tribunal/(Principal District Judge, Cuddalore).

For Appellant : Mrs.Ramya V.Rao

For Respondent : Mr.T.Chandrasekaran

COMMON JUDGMENT

Civil Miscellaneous Appeals are directed against the award of the Motor Accident Claims Tribunal, Cuddalore dated 30.11.2021, in and by which, in respect of claim for compensation for a fatal accident, the Tribunal has awarded a total compensation of Rs.22,98,000/-.



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2. Heard Mr.T.Chandrasekaran, learned counsel for the appellant/Corporation and Mrs.Ramya V.Rao, learned counsel for the respondent/claimant.

3. Learned counsel for the appellant would submit that in this case, the appellant Corporation has filed a counter categorically denying the very accident itself. It is alleged that the deceased was travelling in a two wheeler and that the offending bus was involved in the accident and only on the next day, a complaint was lodged before the jurisdictional police. As a matter of fact, if such an accident would have happened, the bus would not have proceeded further with the trip. On the other hand, the bus proceeded without any hiccup and it stopped in all the bus stops and there is records to show that there are passengers who travelled and the trip was closed in time upto the destination. Therefore, it is only belatedly, an attempt was made to wrongly implicate the bus, perhaps, because of the reason that they could not ascertain the vehicle that was involved in the accident. Secondly, the learned counsel for the appellant would submit that the quantum fixed in respect of the bachelor is also on the higher side and the income is taken as Rs.15,000/- p.m. which is on the higher side.



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4. Per contra, the learned counsel for the respondent would submit that FIR is marked as Ex.P1. When a fatal accident had taken place, the father had gone to the police station on the next day and given a complaint. That cannot be treated as gross or grave delay. Secondly, the eye witness to the accident was examined as P.W.2. In the teeth of the said evidence let in on behalf of the respondent/ claimant, except by filing the counter, no evidence whatsoever was let in by the appellant Corporation. Secondly, as far as the quantum is concerned, the deceased was a 3rd year Engineering student and consistently, this Court has been awarding the income of Rs.20,000/- or Rs.21,000/- p.m. for Engineering students and in this case, only Rs.15,000/- p.m. has been taken by the Tribunal.

5. We have considered the submissions made on either side and perused the material records of the case.

6. Firstly, as rightly contended on behalf of the learned counsel appearing for the claimant, it can be seen that after taking a specific stand in the counter that the bus was not at all involved in the accident, no evidence whatsoever was let in by the appellant. It is for the appellant to prove its case, especially, when the claimants have discharged their



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onus by marking the First Information Report and also by examining the eye witness. Therefore, no exception whatsoever can be taken in respect of the finding of the Tribunal that the accident happened only because of the rash and negligent driving of the driver of the bus. Secondly, coming to the quantum, the learned counsel appearing on behalf of the Insurance Company would submit that the income which is taken is on the higher side. On the contrary, the learned counsel appearing on behalf of the claimant would submit that as a matter of fact Rs.20,000/- is being ordered in some of the earlier cases relating to Engineering students who died as Bachelor. In that regard, they are praying for enhancement and if that is to be taken, the total compensation which has to enhanced is Rs.31,34,000/-. In this regard, a perusal of one such earlier order passed by this Court in C.M.A.No.1639/2021 dated 17.03.2022 would be clear that in respect of Engineering students who are especially, in 3rd year or final year, a sum of Rs.20,000/- is taken as notional income. Therefore, we find that the Tribunal erred in taking only a sum of Rs.15,000/- as the notional income. In that view of the matter, we are inclined to enhance the compensation and recalculate the compensation as follows:

Notional Monthly income : Rs.20,000/-



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plus: 40% future prospects	: Rs. 8,000/-

	Rs.28,000/-
Towards loss of dependency Rs.28,000 x 12 x 18 x 1/2 (as deceased was a bachelor)	: Rs.30,24,000/-
Towards Funeral Expenses	: Rs. 15,000/-
Towards Loss of Estate	: Rs. 15,000/-
Towards filial consortium	: Rs. 80,000/-

	<u>Rs.31,34,000/-</u>

7. In the result, the C.M.A.No.2114 of 2022 is dismissed C.M.A.No.1134/2022 is allowed in part. The total compensation is fixed at Rs.31,34,000/- (Rupees Thirty One Lakhs Thirty Four Thousand only). The Transport Corporation is directed to deposit the balance compensation within a period of eight weeks from the date of receipt of a copy of the order. On such deposit being made, the respondent/ claimant is entitled to withdraw the entire sum. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
vsi

(J.N.B,J.) (D.B.C, J.)
30.06.2023



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To

The Motor Accident Claims Tribunal
(Principal District Court),
Cuddalore.



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J. NISHA BANU, J.
and
D.BHARATHA CHAKRAVARTHY, J.

vsi

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