



C.M.A.Nos.1576 and 1577 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.Nos.1576 and 1577 of 2017

and

C.M.P.Nos.8300 and 8301 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram District,
Villupuram.

... Appellant / Respondent
in both CMAs

Vs.

1. M.Perumal
S/o.Manickam

... 1st Respondent / 1st Petitioner
in C.M.A.No.1576 of 2017

2. Lakshmi
W/o.M.Perumal

... 2nd Respondent / 2nd Petitioner
in C.M.A.No.1576 of 2017

3. S.Mahan
S/o.Samikkannu

... Respondent / Petitioner
in C.M.A.No.1577 of 2017



C.M.A.Nos.1576 and 1577 of 2017

COMMON PRAYER : Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, against the common judgment and decree dated 21.04.2014 made in M.C.O.P.Nos.291 and 292 of 2011 on the file of the Motor Accidents Claims Tribunal, Principal Tribunal Judge, Tindivanam.

For Appellant : Mr.S.S.Santhosh Kumar
in both CMAs for TNSTC

For Respondents : Not ready notice
in both CMAs

COMMON JUDGMENT

These appeals are filed against the common award passed by the Motor Accidents Claims Tribunal, Principal Tribunal Judge, Tindivanam in M.C.O.P.Nos.291 and 292 of 2011, dated 21.04.2014.

2. The Transport Corporation is the appellant herein. On 14.01.2011 at about 10.30 pm, when the injured Mahan was riding a two wheeler bearing Registration No.TN-22-BA-7031 and as a pillion rider, one Ramesh (deceased) was travelling, at that time, a bus belonging to the



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appellant Corporation bearing Registration No.TN-32-N-2812 was came from the opposite side made a hit on collusion to the two wheeler, as a result of which, the said Ramesh (pillion rider) died on the spot and the driver of the vehicle, i.e., Mahan sustained grievous injuries.

3. Claiming compensation for the death of the deceased Ramesh, his parents, viz., claimants in M.C.O.P.No.291 of 2011 and the injured claimant himself in M.C.O.P.No.292 of 2011 have filed claim petitions before the Motor Accidents Claims Tribunal, Principal Tribunal Judge, Tindivanam claiming compensation of Rs.15,00,000/- and Rs.20,00,000/- respectively.

4. The Tribunal after considering the facts and circumstances of the case and the materials available on record came to the conclusion that the driver of the bus had driven the vehicle in a rash and negligent manner, thereby causing the death of the deceased Ramesh and serious injuries to the injured claimant - Mahan. Accordingly, the Tribunal passed an award



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directing the appellant Corporation to deposit a sum of Rs.4,13,000/- in respect of the claimants due to the death of their deceased son Ramesh and a sum of Rs.3,33,098/- for the grievous injuries sustained by the said Mahan along with 7.5% interest from the date of filing of claim petitions till the date of deposit.

5. Assailing the said award, the appellant Corporation is before this Court on the ground that the negligence factor was not proved and no sufficient evidence was produced to substantiate that the driver of the bus alone was negligent. The issue of contributory negligence was not taken into consideration by the Tribunal. That apart, the Tribunal ought to have fixed the salary of the deceased Ramesh and the injured Mahan as Rs.3,000/-, however it was fixed as Rs.4,500/- without any documentary evidence. The learned counsel for the appellant Corporation also assails the award on the ground that the Tribunal has wrongly fixed the medical expenses for the injured Mahan without any documents to that effect and therefore, the award passed by the Tribunal is highly disproportionate.



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6. Though the appeals are filed in the year 2017, till date the appellant Corporation has not taken any steps to serve notice to the respective claimants.

7. This Court after going through the award passed by the Tribunal and the arguments advanced by the learned counsel for the appellant Corporation is unable to even support the award passed by the Tribunal for the reasons that the Tribunal had in fact arrived of the compensation taking the monthly income of the deceased Ramesh and the injured Mahan as Rs.4,500/-, whereas the monthly income should have been taken at Rs.6,500/- as laid down in the case of ***Syed Sadiq & Ors. Vs. The Divisional Manager, United India Insurance Co. Ltd*** reported in ***2014 (2) SCC 735***.

8. Considering the age of the deceased and the injured claimant, viz., 22 at the time of the accident, they both were in their heydays and would have earned more by passing of their age and therefore, the monthly



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income arrived at by the Tribunal is too low in the opinion of this Court. That apart, the Tribunal has not arrived at the compensation by adopting proper multiplier in M.C.O.P.No.291 of 2011. In fact, the Tribunal has not taken into account the age of the deceased, whereas the Tribunal has taken the age of the mother of the deceased as seen in the paragraph No.12 of the award. Therefore, the award itself has been passed by adopting lesser multiplier and also taking the income of both the deceased and the injured claimant at lesser amount. The appellant Corporation cannot have a successful challenge of the award that too on the ground of disproportionate compensation.

9. Accordingly, these Civil Miscellaneous Appeals are dismissed in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

30.10.2023

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

vji



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To

1. The Motor Accidents Claims Tribunal,
Principal Tribunal Judge,
Tindivanam.
2. The Section Officer,
V.R. Section,
High Court, Chennai.



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M.DHANDAPANI, J.

vji

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