



C.M.A.(MD)No.1056 of 2011

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.1056 of 2011

and

M.P.(MD)No.1 of 2011

M/s.Tamil Nadu State
Transport Corporation Ltd.,
Division-1,
Salem.

... Appellant

Vs.

1.S.Mahaboob Bivi

2.Rohanisha

3.Kamatchi Sundaram

4.M/s.New India Assurance
Company Ltd.,
Ibrahim Park,
Trichy-8.

... Respondents

*(Respondents 1 and 2 are represented by S.Ammernisha,
W/o.Shagul Hameed, Sister of the deceased Akbar Basha)*



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PRAYER: Civil Miscellaneous Appeal filed under Order 173 of Motor Vehicles Act, 1988, to set aside the Judgment and decree passed in M.C.O.P.No.1690 of 2005 dated 18.02.2011, on the file of the Motor Accident Claims Tribunal/III Additional Sub-Court, Trichy.

For Appellant : Mr.M.Prakash

For R-4 : No appearance

JUDGMENT

This Civil Miscellaneous Appeal has been directed against the Judgment and decree passed in M.C.O.P.No.1690 of 2005 dated 18.02.2011, on the file of the Motor Accident Claims Tribunal/III Additional Sub-Court, Trichy, by the appellant Transport Corporation, Division-1, Salem / 3rd respondent challenging the liability as well as the quantum of award made by the learned Tribunal.

2. For the sake of convenience, the parties are referred herein as per their rank before the Trial Court.



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3. The brief facts in a nutshell are as follows:

(i) This is a fatal case. On 24.09.2000, the deceased one Akbar Basha travelled along with his friends in a TATA SUMO bearing registration No. TN-45-L-6905. At about 12.30 P.M., at Koochi Kulathur on Thindivanam-Chennai Main Road, the bus bearing registration No.TN-27-N-1112 dashed against the said TATA SUMO in which the deceased was travelling. As a result of which, the deceased sustained multiple injuries all over the body and he was taken to the Government Hospital, Thindivanam for first aid and then he got treatment at Malar Hospitals Ltd., where he died on 25.09.2000 i.e., the very next day of the said accident. His body was taken to the Thindivanam Government Hospital where the Post Mortem was conducted on 26.09.2000.

(ii) Hence, the petitioners have filed M.C.O.P.No.1690 of 2005 before the Motor Accident Claims Tribunal/III Additional Sub-Court, Trichy, seeking compensation for the loss of life of the deceased Akbar Basha. The 1st petitioner is the mother of the deceased. The 2nd petitioner is the sister of the deceased. Both the petitioners suffered intellectual disabilities. Hence, they were represented by one Ameernisha/ W/o. Shagul



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Hammed / Next friend / Guardian. The 3rd respondent had filed a counter refuting the allegations set forth in the claim petition. After considering the oral and documentary evidence and the arguments submitted by the respective parties, the learned Tribunal had concluded that the accident occurred due to the equal contributory negligence of the drivers of both the TATA SUMO and the bus and also awarded a sum of Rs.2,32,000/- (Rupees Two Lakhs and Thirty Two Thousand only) as compensation with interest at 7.5% p.a. from the date of petition. The details of the compensation awarded by the learned Tribunal are as follows:

S.No.	Description	Amount
1.	Loss of Income	Rs. 1,92,000/-
2.	Loss of love and affection	Rs. 30,000/-
3.	Funeral Expenses	Rs. 5,000/-
4.	Transport Expenses	Rs. 5,000/-
	Total	Rs, 2,32,000/-

Aggrieved by that award, the appellant / The Tamil Nadu State Transport Corporation, Division I, Salem has filed the present appeal.



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4. The learned counsel for the appellant/Transport Corporation questioned only the quantum of compensation awarded by the Tribunal and submitted that the compensation awarded by the Tribunal is excessive, exorbitant and without any basis and justification. Hence, the order passed by the Tribunal is not in accordance with law and the same should be set aside.

5. Heard the learned Counsel appearing for the appellant and perused the materials available on record. On the side of the petitioners, two witnesses, P.W-1 and P.W-2 were examined and the documents Ex.P-1 to Ex.P-5 were marked. On the side of the respondents, one witness, RW-1 was examined and no documentary evidence was marked.

6. On critical perusal of the entire award, it is clear that the Tribunal has rightly assessed the oral and documentary evidence and arrived at a just and reasonable compensation. Moreover, the accident happened in the year 2000 and the claimants are 2 woman of unsound mind and they are waiting for compensation for more than 20 years. Hence, this Court is of



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the considered view that it is not necessary to interfere with the award passed by the Tribunal. Accordingly, this Civil Miscellaneous Appeal is dismissed.

6. The appellant is directed to deposit the entire compensation amount as awarded by the Tribunal with accrued interest and costs to the credit of M.C.O.P.No.1690 of 2005 before the Motor Accident Claims Tribunal/III Additional Sub-Court, Trichy within a period of eight weeks (8) from the date of receipt of copy of this judgment, less the amount, if any already deposited. On such deposit, the claimant is permitted to withdraw the said amount, less the amount, if any already withdrawn, by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

15.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml



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To

The Motor Accident Claims Tribunal /
III Additional Sub-Court, Trichy.

Copy to

The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

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