



C.M.A(MD)No.1351 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.06.2023**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.1351 of 2016

and

C.M.P(MD)No.11309 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation
(Division I),
Kumbakonam.

... Appellant/Respondent

Vs.

1.M.Masootha Begam

2.Tamimul Ansari

3.Asma Parveen

4.Abdul Kareem

... Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, Additional District and Sessions Court/E.C Act Special Court, Thanjavur in M.C.O.P.No.113 of 2009, dated 10.12.2011.

For Appellant : Mr.D.Sivaraman



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For Respondents : No Appearance

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JUDGMENT

The present appeal has been filed by the transport corporation challenging the award passed by the Motor Accident Claims Tribunal, Thanjavur in M.C.O.P.No.113 of 2009.

2. According to the claimants, the deceased was riding a two wheeler on the left side of the road from east to west direction on 03.12.2008. At about 2.30 p.m, a bus belonging to the transport corporation came from the opposite direction in a rash and negligent manner and dashed against the two wheeler in which the deceased was seriously injured and he died on the spot.

3. According to the claimants, the deceased was working as a driver in Dubai and earning a sum of Rs.25,000/- per month and he was maintaining the family. The claimants have prayed for a sum of Rs.30,00,000/- towards compensation.

4. The transport corporation has filed a counter contending that in order to avoid dashing against a cyclist, the rider of the two wheeler had



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applied sudden brake and he lost balance and he had fallen under the front right tyre of the bus and passed away. Therefore, the transport corporation was no way responsible for the said accident and they need not pay compensation. They have also questioned the quantum of compensation as prayed for.

5. The tribunal relied upon P.W.2 who was an eye witness and came to a conclusion that the transport corporation has not established the fact that in order to avoid dashing against a cyclist, the deceased had applied sudden brake. The tribunal further found that the driver of the transport corporation bus had driven the vehicle on the right side of the road and has caused the accident and ultimately, found that the accident had happened only due to the rash and negligent driving on the part of the driver of the transport corporation.

6. The tribunal further found that the deceased was having an international driving license and he was earning a sum of Rs.12,000/- per month and after deducting 1/3rd towards personal expenses and applying a multiplier of 13, the tribunal has arrived at a compensation of Rs.12,48,000/- under the head of loss of income. The tribunal has further



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awarded a sum of Rs.20,000/- towards loss of consortium to the 1st claimant, a sum of Rs.30,000/- to the claimants 2 and 3 under the head of loss of love and affection, a sum of Rs.10,000/- to the 4th claimant towards the loss of filial consortium and an another sum of Rs.10,000/- has been awarded. A sum of Rs.7,000/- was awarded for funeral expenses and transport charges. Totally, a sum of Rs.13,25,000/- was awarded. This award is under challenge in the present appeal primarily on the ground of negligence.

7. According to the appellant/transport corporation, the deceased had applied sudden brake in order to avoid dashing against a cyclist and therefore, he lost balance and fallen under the front right tyre of the bus along with the two wheeler. Therefore, they are not responsible for the said accident. The driver of the bus has been examined. One Uthuman Ali who is an eye witness has been examined as P.W.2. According to the said P.W.2, the bus had dashed against the two wheeler and that has resulted in the accident. The transport corporation has not taken any steps to mark the Motor Vehicle Inspector's Report to establish the damages to both the vehicles in order to establish the manner of accident. Therefore, this Court does not find any reason to interfere in the findings



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of the tribunal that the accident has taken place only due to the negligence on the part of the driver of the transport corporation.

Considering the fact that the deceased was holding an international driving license and he was working as a driver in Dubai, the quantum of compensation is neither unreasonable nor exorbitant. There are no merits in the appeal.

8. Hence, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

26.06.2023

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

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To

1.The Motor Accident Claims Tribunal,
Additional District and Sessions Court/
E.C Act Special Court,
Thanjavur.

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



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R.VIJAYAKUMAR,J.

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Judgment made in
C.M.A(MD)No.1351 of 2016

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