



C.M.A.(MD)No.365 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.365 of 2012

and

M.P.(MD)No.1 of 2012

The Managing Director,
Tamil Nadu State Transport
Corporation (Coimbatore) Ltd.,
37, Mettupalayam Road,
Coimbatore.

... Appellant / 1st respondent

Vs.

1.Selvarani

2.Minor.Vanitha

3.Minor.Keerthana

4.Minor.Saravanakumar

5.Minor.Vinotha

... Respondents / Petitioners

(Minor respondents 2 to 5 are represented by their mother / 1st respondent herein)

6.A.Murugesan

... 6th respondent / 2nd respondent



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PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the Judgment and decree passed in M.C.O.P.No.489 of 2007 dated 10.09.2009, on the file of the Motor Accident Claims Tribunal / District Court, Karur.

For Appellant : Mr.M.Prakash

For R-1 to R-5 : Mr.K.Suresh Kumar

For R-6 : No appearance

JUDGMENT

This Civil Miscellaneous Appeal has been directed against the Judgment and decree passed in M.C.O.P.No.489 of 2007 dated 10.09.2009, on the file of the Motor Accident Claims Tribunal / District Court, Karur by the appellant Transport Corporation (Coimbatore) 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. The 1st respondent is the owner of the bus bearing registration No.TN-33-N-2144 and the 2nd respondent is the owner of the TVS Centra Motor cycle bearing registration No.TN-47-L-6645. On 29.07.2007, at about 1.30 P.M., the deceased Arjunan was riding TVS Centra Motor cycle bearing registration No.TN-47-L-6645 along with one another pillion rider namely, Murugesan. While they were proceeding from west to east on the Karur - Trichy main road, near Moolakattanoor Reliance Petrol Bank, the respondent's bus who came from east to west direction in a rash and negligent manner hit against the motor cycle. As a result of which, the pillion rider Murugesan sustained head injuries and fractures all over the body and died on the spot. The rider Arjunan also sustained grievous injuries and died on the spot.

(ii) The deceased Murugesan was aged about 35 years at the time of the accident and he was working as a bus body structural contractor at Sakthi Coach, Karur and earned a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) per month. Hence, the legal heirs of the deceased Murugesan have filed M.C.O.P.No.489 of 2007 before the Motor Accident



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Claims Tribunal / District Court, Karur, seeking compensation for the loss of life of the deceased Murugesan. The 1st respondent had filed a counter refuting the allegations put 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 by fixing 70% negligence on the part of the driver of the 1st respondent's bus and 30% negligence on the part of the rider of the two wheeler.

(iii) Ex.P-1, FIR would reveal that the deceased was working as a contractor carrying out building works. From that, the Tribunal had concluded that both the deceased Murugesan and deceased Arjunan had worked as contractors. Arjunan carried out contract work and Murugesan assisted Arjunan to the welding contract. In the absence of any document to prove the income of the welder, the Tribunal has fixed the notional income of the deceased at Rs.5,500/- (Rupees Five Thousand and Five Hundred only) per month and had taken Rs.4,000/- (Rupees Four Thousand only) per month as contribution towards family. The age of the deceased Murugesan is 35 years. Therefore, the Tribunal has adopted the multiplier 16. Hence, the Tribunal has concluded that the petitioners were



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entitled to get a sum of Rs. 8,28,000/- (Rupees Eight Lakhs and Twenty Eight Thosand only) as compensation from the respondents 1 and 2 i.e., 70% from the 1st respondent and 30% from the 2nd respondent respectively. The loss of income would arrive at Rs.7,68,000/- (Rupees Seven Lakhs and Sixty Eight Thousand only) (Rs.4,000 * 12 * 16). The details of the compensation for the petitioners awarded by the learned Tribunal are as follows:

S.No.	Description	Amount
1.	Loss of Income	Rs. 7,68,000/- (Rs.4,000*12*16)
2.	Funeral Expenses	Rs. 10,000/-
3.	Loss of consortium for 1 st petitioner	Rs. 10,000/-
4.	Loss of love and affection for the petitioners 2 to 5	Rs. 40,000/-
	Total	Rs, 8,28,000/-

Aggrieved by that award, the appellant / The Tamil Nadu State Transport Corporation 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, three witnesses, P.W-1 to P.W-3 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. It is a question of fact and it is based on valid materials and evidence. Hence the same is confirmed.

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. Hence, this Court is of the considered



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

7. The appellant is directed to deposit the amount as awarded by the Tribunal with accrued interest and costs to the credit of M.C.O.P.No.489 of 2007 before the Motor Accident Claims Tribunal / District Court, Karur, 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 claimants are 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.

13.12.2023

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



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To

The Motor Accident Claims Tribunal /
District Court, Karur.

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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