



C.M.A.(MD)No.366 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

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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.Thulasimani

2.Minor.Balakrishnan

3.Mariyayee

... Respondents / Petitioners

(Minor 2nd respondent is represented by their mother / 1st respondent herein)

4.A.Murugesan

...4thRespondent/2nd respondent

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, to set aside the Judgment and decree passed in



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M.C.O.P.No.490 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 and R-2 : Mr.K.Suresh Kumar
For R-3 : Dismissed
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.490 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 1st 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 Arjunan was aged about 33 years at the time of the accident and carried out bus body structural contractor at Srinivasa Industries, Paramathi and earned Rs.25,000/- (Rupees Twenty Five Thousand only) per month. Hence, the legal heirs of the deceased Arjunan have filed M.C.O.P.No.490 of 2007 before the Motor Accident Claims



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Tribunal / District Court, Karur, seeking compensation for the loss of life of the deceased Arjunan. 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 Arjunan 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 contractor. 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 deceased, the Tribunal has fixed the notional income of the deceased as Rs.5,000/- (Rupees Five Thousand only) per month and had taken Rs.4,000/- (Rupees Four Thousand only) per month as contribution towards his family. The age of the deceased Arjunan is 33 years. Therefore, the Tribunal has adopted the multiplier 17. Accordingly, the loss of income would arrive at Rs.8,16,000/- (Rupees



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Eight Lakhs Sixteen Thounsand only) (Rs.48,000*17). But, after deducting 30% for the negligence of the deceased, the claimants were entitled to get Rs.5,44,000/- (Rupees Five Lakhs Forty Four Thousand only) for loss of income. Hence, the Tribunal had concluded that the claimants were entitled to get a sum of Rs. 5,84,000/- (Rupees Five Lakhs and Eighty Four Thousand only) as compensation from the respondents 1 and 2 i.e., 70% from the 1st respondent and 30% from the 2nd respondent respectively. 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. 5,44,000/-
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 and 3	Rs. 20,000/-
	Total	Rs, 5,84,000/-

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.490 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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