



C.M.A.(MD).No.221 of 2013

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.221 of 2013

Tamil Nadu State Transport Corporation Limited,
Periyamilaguparai,
Trichy – 1. ... Appellant

Vs.

1.Victoria Sahayarani
2.Minor Raja
3.Minor Asarudeen @ Praveen
4.Fathima Beevi ... Respondents
(Minor respondents are rep. Through
their mother and next friend Victoria Sahayarani)

PRAYER : Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the decree and judgment dated 02.07.2007 passed in M.C.O.P.No.2303 of 2004 on the file of the Motor Accidents Claims Tribunal, Sub Court, Tiruchirappalli.

For Appellant : Mr.M.Prakash
For R1 to R4 : No Appearance



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JUDGMENT

This Civil Miscellaneous Appeal has been filed by the appellant/respondent, challenging the compensation awarded on certain counts by the learned Motor Accident Claims Tribunal (Sub Judge), at Trichirappalli in M.C.O.P.No.2303 of 2004 dated 02.07.2007.

2.For the sake of convenience, the parties are arrayed herein as per the rank in M.C.O.P.No.2303 of 2004.

3.The factual matrix of the present case, briefly stated, are as under:-

This is a fatal case. The petitioners have filed the claim petition in M.C.O.P.No.2303 of 2004, seeking a compensation of Rs.8,00,000/- for the death of one Abdul Majeeth. The first petitioner is the wife of the deceased and the petitioners 2 and 3 are the minor children of the deceased fourth petitioner is the aged mother of the deceased. On 18.07.2004 at about 11.10 hours, the deceased Abdul Majeeth was riding his Suzuki motorcycle bearing registration No.TN-45-D-8874 from



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Malaithathan to Manapparai. While he was travelling in Trichy-Dindigul National Highway, the respondent's TNSSTC bus bearing registration No.TN-45-N-1740 came from the opposite side and dashed against the two wheeler. As the result of which, the said Abdul Majeeth sustained fatal injuries on head, face, right hand, etc. Though he was immediately taken to the Government Hospital wherein first aid was given, he was later shifted to Government Hospital, Trichy, wherein he died on 20.07.2004. A complaint was registered by the Manapparai Police as against the driver of the TNSSTC bus.

4.The respondent Corporation has filed a counter before the learned Tribunal refuting each and every allegations put forth in the claim petition.

5.The learned Tribunal has framed two issues. Two witnesses were examined as P.W.1 and P.W.2 on the side of the petitioners and two documents Ex.P1 and Ex.P2 were marked. One witness was examined on the side of the respondent and no document was marked. On the basis of the oral and documentary evidence and on the basis of the arguments put



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forth by the respective parties, the learned Tribunal proceeded to conclude that the accident had happened only due to the rash and negligent driving of the respondent Corporation bus. The age of the deceased was 32 years at the time of death and the same was fixed by the learned Tribunal on the basis of postmortem report, Ex.P2. Though it was claimed by the petitioners that the deceased had mechanic shop for repairing two wheeler and also involved in the profession of buying and selling of two wheeler. Since the petitioners failed to provide any document to prove the same, the notional income of Rs.4,000/- per month was fixed by the learned Tribunal and as the result of which, the yearly income of the deceased was arrived at Rs.48,000/-. As per ***Sarala Verma and others v. Delhi Transport Corporation and other*** reported in ***2009 (2) TNMAC 1***, 1/3rd of the income was deducted towards personal expenses. Contribution towards family was arrived at Rs.32,000/-. On the basis of age of the deceased, multiplier '18' was adopted and hence, under the head of loss of income was arrived at Rs.5,76,000/- (Rs.32,000x18). The learned Tribunal has passed the award under the following heads:-



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Head	Compensation awarded
(I) Loss of income:	Rs.5,76,000/-
(ii) Transportation Expenses:	Rs.5,000/-
(iii) Loss of Spousal Consortium for the 1 st petitioner:	Rs.10,000/-
(iv) Loss of love and affection for petitioners:	Rs.10,000/-
(v) Funeral Expenses:	Rs.5,000/-
Total compensation awarded:	Rs.6,06,000/- with interest @ 7.5 % from the date of the claim until the realization and costs.

6.Challenging the same, the appellant/second respondent/insurance company has filed this Civil Miscellaneous Appeal.

7.A critical perusal of the award passed by the learned Tribunal would reveal that the accident had happened only due to the rash and negligent driving of the respondent Corporation bus and the compensation awarded by the learned Tribunal is very reasonable.



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8. In view of the same, this Court is not inclined to interfere with the order passed by the learned Tribunal and hence, the Civil Miscellaneous Appeal stands dismissed.

9. The petitioners/claimants are entitled to the award amount with interest at the rate of 7.5% from the date of the claim petition till the date of realization. The respondent Transport Corporation is directed to deposit the award amount with 7.5% interest from date of the claim petition till the date of realization and the amount if not deposited earlier, has to be deposited within a period of 8 weeks from the date of receipt of copy of this order. On such deposit, the major claimants/petitioners 1 and 4 are permitted to withdraw their respective share after deducting any amount received by them earlier without filing any formal petition before the Tribunal. Insofar as the share of the minor claimants/petitioners 2 and 3 are concerned, the Tribunal is directed to deposit the same in a Fixed Deposit under a periodically renewable scheme till they attain majority and the first petitioner, the Guardian of the minor, is permitted to withdraw the interest accrued thereon once in three months for the welfare of the minor. The petitioners/claimants are



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not entitled for interest for the default period, if there is any. There shall be no order as to costs.

13.12.2023

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

To

- 1.The Motor Accidents Claims Tribunal,
(Sub Judge), Trichy.
- 2.The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

Mrn

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