



C.M.A.(MD)No.391 of 2013

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

C.M.A.(MD)No.391 of 2013

and

M.P.(MD)No.1 of 2013

The Managing Director,
Tamil Nadu State Transport
Corporation,
Madurai Division-2,
Tirunelveli.

... Appellant / Respondent

Vs.

1.Sunam Nagi

2.Minor.Sunam Mini

3.Minor.Sunam Kamala

4.Minor. Sunam Kanak

... Respondents / Petitioners

*(Minor respondents 2 to 4 are represented by their mother
and guardian 1st respondent herein)*

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



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M.C.O.P.No.1539 of 2006, dated 12.02.2008 on the file of the Motor Accident Claims Tribunal Cum Additional District Court / Fast Track Court No.I, Tirunelveli.

For Appellant : Mr.M.Prakash

For Respondents : No appearance

JUDGMENT

This Civil Miscellaneous Appeal has been directed against the Judgment and decree passed in M.C.O.P.No.1539 of 2006, dated 12.02.2008 on the file of the Motor Accident Claims Tribunal Cum Additional District Court / Fast Track Court No.I, Tirunelveli, by the appellant Transport Corporation, Madurai Division-2, Tirunelveli, 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 02.04.2006, the deceased Ramu was travelling in the bus bearing registration No.T.N.72.N.0658 belonging to the respondent corporation, from Tirunelveli to Thuvarasi Village, Thiruppanikarisalkulam. At about 21.10 hours the respondent's bus was stopped at the Thuvarasi bus stop for getting down the passengers. When the deceased Ramu was getting down the bus, the driver of the respondent's bus, before whistle of the conductor in a hasty manner suddenly started the bus in a rash and negligent manner. As a result of which, the deceased fell down from the bus and sustained grievous injuries over the head and sustained multiple injuries all over the body. Immediately after the accident, the deceased was taken to the Shifa Hospital, Tirunelveli where he was admitted and treated as inpatient. Despite best treatments given to the deceased, he died on 09.04.2006.

(ii) Hence, the claimants have filed M.C.O.P.No.1539 of 2006, before the Motor Accident Claims Tribunal Cum Additional District Court / Fast Track Court No.I, Tirunelveli, seeking compensation for the loss of life of the deceased Ramu. The 1st petitioner is the wife of the



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deceased. The petitioners 2 to 4 are the minor children of the deceased. The 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 only due to the rash and negligence of the driver of the respondent's bus and fixed the liability on the part of the respondent corporation and also awarded a sum of Rs.5,46,954/- (Rupees Five Lakhs Forty Six Thousand Nine Hundred and Fifty Four only) as compensation with interest at 7.5% p.a. from the date of petition.

(iii) The deceased was 35 years old at the time of the accident. Since the deceased was working as Carpenter, fixed his monthly income at Rs. 3,500/- (Rupees Three Thousand and Five Hundred only). Hence, the yearly income arrived at Rs.42,000/- (Rupees Forty Two Thousand only). In which $\frac{1}{3}^{\text{rd}}$ was deducted for his personal expenses i.e., Rs.14,000 (Rupees Fourteen Thousand only) and the $\frac{2}{3}^{\text{rd}}$ was calculated for family expenses i.e., Rs.28,000/- (Rupees Twenty Eight Thousand only). Since the age of the deceased was 35, the relevant multiplier is 17. Hence, the loss of income would arrive at Rs.4,76,000/- (Rupees Four Lakhs and Seventy



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Six Thousand only) (Rs.28,000*17 = Rs.4,76,000) The details of the compensation awarded by the learned Tribunal are as follows:

S.No.	Description	Amount
1.	Loss of Income	Rs. 4,76,000/-
2.	Loss of love and affection	Rs. 20,000/-
3.	Loss of Assets	Rs. 2,500/-
4.	Funeral Expenses	Rs. 2,000/-
5.	Medical Expenses	Rs, 46,954/-
	Total	Rs, 5,46,954/-

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

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.



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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-24 were marked. On the side of the respondents, one witness, RW-1 was examined and no documentary evidence was marked and the learned Tribunal framed three issues. 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. In view of the same, this Court is of the considered 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 herein 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.1539 of 2006, on the file of the Motor Accident Claims Tribunal Cum Additional District Court / Fast Track Court No.I,



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Tirunelveli 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 respondents / claimants are entitled to get their shares as per the apportionment fixed by the Tribunal, less the amount, if any already withdrawn, by making necessary application before the Tribunal. The 1st respondent / claimant is permitted to withdraw her share together with interest and the share of the minor respondents 2 to 4 shall be deposited in any one of the Nationalised Banks till they attain majority. The 1st respondent, who is the mother of the minor claimants is permitted to withdraw the interest of minors once in three months directly from the Bank. No costs. Consequently, connected miscellaneous petition is closed.

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



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To

The Motor Accident Claims Tribunal,
Additional District Judge/
Fast Tract Court No.I,
Tirunelveli.

Copy to

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



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L.VICTORIA GOWRI, J.,

Sml

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