



C.M.A.(MD).No.1185 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISHKUMAR

C.M.A.(MD).No.1185 of 2022

and

C.M.P.(MD).No.12056 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Coimbatore,
Erode Region.

... Appellant

Vs.

Rathina Kumar (Died)
1.Sooralakshmi
2.Arunkumar
3.Arunitha
4.I.Ravi
5.The Manager,
IFCO Tokiyo General Insurance Company Limited,
12, Freetham Plaza 1st Floor,
Ponmeni, Bye Pass Road,
Madurai.

... Respondents

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the award and decree made in M.C.O.P.No.12 of 2012, dated 15.11.2018 on the file of the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Virudhunagar District at Srivilliputhur.



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For Appellant : Mr.P.Prabhakaran
For R1 to R3 : Mr.S.Venkatesh
For R5 : Mr.V.Sakthivel

JUDGMENT

Challenging the award passed by the Motor Accident Claims Tribunal, Chief Judicial Magistrate Court, Virudhunagar District at Srivilliputhur in M.C.O.P.No.12 of 2012, dated 15.11.2018, the Transport Corporation has filed the present appeal mainly on the ground that there is no nexus between the accident and the death of the deceased. However, the Tribunal has awarded a sum of Rs.11,15,300/- as compensation.

2. The brief facts leading to the filing of this appeal are as follows:

On 11.05.2007, at about 8.30 p.m., the deceased was travelling in a TATA Sumo car bearing Registration No.TN 65 A 4550 along with others in Madurai – Tuticorin Highway, to attend the Pongal festival. At that time, the driver of the bus bearing Registration No.TN 33 N 1894 came in a rash and negligent manner and dashed against the TATA Sumo car.



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As a result, the deceased sustained severe injuries and spinal cord was fractured and both the legs were completely damaged and nervous system also affected. Thereafter, he was treated in the Government Hospital and he is not able to move and totally bedridden and he died on 20.07.2017. It is the case of the first respondent/Transport Corporation before the Tribunal that while the bus was overtaking the Torus lorry proceeding in front of the bus, the driver of the lorry show the signal not to overtake the lorry. Therefore, the driver of the bus took the bus on the left side. At that time, the TATA sumo car came in a rash and negligent manner and dashed against the bus.

3. Before the Tribunal, on the side of the petitioners, P.W.1 was examined and Exs.P1 to P18 were marked and R.Ws.1 and 2 were examined and Exs.R1 was marked.

4. The Tribunal, after considering the evidence of the eyewitnesses, found that only the driver of the bus was negligent in driving the bus and the deceased died due to the injuries. Though he died



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in the year 2017 after ten years from the date of accident, the deceased was continuously in treatment and awarded a sum of Rs.11,15,300/-. Challenging the same, the present appeal came to be filed by the appellant/Transport Corporation.

5. The main contention of the learned counsel for the appellant is that there is no nexus between the accident and the death of the deceased. According to him, the accident took place on 11.05.2007, whereas the deceased died on 20.07.2017, after 10 years from the date of accident and there is no evidence to show that the deceased continuously taken treatment.

6. The learned counsel appearing for the respondents 1 to 3 and 5 would submit that the deceased suffered severe fracture on the spinal cord and both the legs were immobilised and totally bedridden and he was continuously taken care of by the wife and children. This fact has also been established by the Commissioner report. Therefore, merely because no specific document has been filed to show that the deceased



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died due to the complication of injuries it cannot be concluded that the deceased was not died due to the accident.

7. In the light of the above submissions, now the points for consideration in this appeal are (i) whether the claimants have proved the nexus between the accident and the death of the deceased? (ii) Whether the Tribunal is right in awarding the compensation for the death case?

8. The Tribunal on appreciation of evidence found that only the driver of the bus was negligent in driving the bus and caused the accident and P.W.2/eyewitness in his evidence clearly stated that only the driver of the offending vehicle drove the bus in a rash and negligent manner and caused the accident and the F.I.R. also filed against the driver of the offending vehicle.

9. Considering the nature of the documents and the evidence of P.W.2, this Court is of the view that the finding of the Tribunal that the driver of the offending vehicle was responsible for the accident does not



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require any interference.

10. With regard to the other contention that there is no nexus between the accident and the death of the deceased, on a perusal of the evidence and the documents produced before the Tribunal ie., Exs.P9, P10, P11, P12, P13, P14, P15, P16 and P17 make it clear that the deceased was suffered serious injuries and the spinal cord was completely damaged and Ex.P17 / disability certificate issued by the Government to the effect that he suffered 80% of functional disability. Though the petitioners not filed any document to show that he was taken continuous treatment, the fact remains that though the injured died on 20.05.2017, till his death he was continuously bedridden. This fact can be seen from the Commissioner report filed before the Tribunal. In fact, the Commissioner was appointed to examine the injured in the year 2015. The Commissioner has examined the injured and filed a report before the Tribunal to the effect that he was totally immobilised and he was not in a position to speak and even all his basic necessities looked after by his wife. The report of the Commissioner is not challenged before this Court.



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The deceased was an ordinary coolie and in fact, earlier he was treated in the Government hospital for certain period and thereafter, he was taken care of by his wife and the Government has also issued Ex.P17 / disability certificate to give some benefits to him. It is also indicate that 80% complete disability it cannot be stated that there is no nexus between the accident and the death of the deceased. Hence, the contention of the appellant in this regard cannot be countenanced. This Court is of the view that the injured was continuously in treatment till his death from the year 2017. Accordingly, the petitioners are entitled to compensation.

11. As far as the quantum of compensation, the Tribunal has fixed a sum of Rs.6,500/- as notional income of the deceased and he was aged about 38 years and applied the multiplier '15' and the quantum of compensation also not challenged by the petitioners. Though the Tribunal has awarded a sum of Rs.1,00,000/- for pain and suffering, this Court is of the view that the said amount shall be adjusted towards consortium and loss of love and affection and the amount awarded by the Tribunal in



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other aspects is confirmed.

12. In the result, the Civil Miscellaneous Appeal is dismissed and the appellant/Transport Corporation is directed to deposit the entire award amount within a period of four weeks from the date of receipt of a copy of this order. On such deposit, the claimants are permitted to withdraw the same as apportioned by the Tribunal. No costs. Consequently, the connected Miscellaneous Petition is closed.

14.06.2023

NCC:Yes/No

Index:Yes/No

akv

To

1.The Motor Accident Claims Tribunal,
Chief Judicial Magistrate Court,
Virudhunagar District,
Srivilliputhur.

2.The Record Keeper,
VR Section,



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Madurai Bench of Madras High Court,
Madurai.

N.SATHISHKUMAR, J.

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