

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.809 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam Ltd.,
Pudukottai Region,
Pudukottai-622 001.

...Appellant/Respondent

Vs.

1.M.Latha
2.M.Muthusuresh
3.Minor M.Nivetha
4.M.Azhagammal

...Respondents/claimants

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the impugned award passed in M.C.O.P.No. 1223 of 2017 on the file of the MACT (Special District Court), Tiruchirappalli dated 19.10.2019.

For Appellant : Mr.P.M.Vishnuvarthanan

For R1 to R4 : No Appearance

JUDGMENT

This Civil Miscellaneous Appeal has been filed challenging the quantum of compensation awarded by the Motor Accident Claims Tribunal, Special District Court, Tiruchirappalli in M.C.O.P.No.1223 of 2017, dated 19.10.2019.

2.For the sake of convenience, the parties are referred to herein, as per their rank before the Trial Court.

3.The brief facts, leading to the filing of this Civil Miscellaneous Appeal, are as follows:-

(i)on 30.11.2015 at about 04.00 p.m., when the deceased was riding his motorcycle in Trichy-Pudukottai Road, the bus bearing Registration No.TN-55-N-0739 came in a rash and negligent manner dashed against the motorcycle from the behind, as a result, the deceased was thrown out of the motorcycle and sustained injuries. He was admitted in the hospital on the same date and he succumbed to injuries on 28.06.2016.

(ii) a case was also registered against the driver of the offending vehicle. The first petitioner is the wife of the deceased. The second and third petitioners are the children of the deceased. The fourth petitioner is the mother of the deceased. The deceased was working in a Hotel and drawing a salary of Rs.13,500/- per month.

(ii) The respondent before the tribunal took a stand that the driver of the bus had driven the vehicle in a cautious manner, whereas the deceased rode the vehicle in a rash and negligent manner and without giving any signal, the deceased crossed the road from left to right side, which resulted in accident. Hence, the deceased is only responsible for the accident.

4. Before the Tribunal, on the side of the claimants, P.W.1 to P.W.4 were examined and Ex.P1 to Ex.P16 were marked. On the side of the respondent R.W.1 was examined and Ex.R1 was marked.

5.The tribunal after considering the oral and documentary evidence, had fixed the negligence on the part of the driver of the bus /offending vehicle and awarded the compensation of Rs.30,82,099/-.

6.The quantum fixed by the Tribunal is only challenged in this appeal. The aspect of negligence is not canvassed by the learned counsel for the appellant in this appeal.

7.Based on the entire evidence on record, now the point arises for consideration in this appeal is:

(1) *Whether the quantum fixed by the Tribunal suffers from any infirmity?*

8.Admittedly, the deceased was aged about 48 years at the time of accident. It has been substantiated before the trial Court under Ex.P4 to Ex.P7. The evidence of P.W.3, Manager of the Hotel, under whom the deceased was

working, clearly shows that the deceased was earning a sum of Rs.13,500/- per month at the time of accident. The Tribunal considering all these aspects has rightly fixed the notional income at Rs.13,500/- and added 25% towards future prospects. Further, the Tribunal had deducted 1/5 of the income towards his personal expenses and also awarded other conventional damages.

9.On perusal of the award passed by the Tribunal and the evidence adduced on both sides, this Court is of the view that there is no infirmity in the award passed by the tribunal warranting interference of this Court. I do not find any merits in this appeal. Accordingly, this Civil Miscellaneous Appeal is dismissed and the award passed by the Tribunal is confirmed.

10.The appellant 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.1223 of 2017, on the file of the Motor Accident Claims Tribunal / Special District Court, Tiruchirappalli within a period of one month from the date of receipt of copy of this judgment, less the amount, if any already deposited. On such deposit, the major claimant is permitted to withdraw the award amount as

apportioned by the Tribunal, less the amount, if any already withdrawn, by making necessary application before the Tribunal. The Tribunal shall deposit the share of the minor claimant in a Fixed Deposit in any one of the Nationalized Banks, till they attain majority. The guardian of the minor is permitted to withdraw the interest accrued thereon once in three months directly from the bank. No costs.

16.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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To

1.The Motor Accident Claims Tribunal/
Special District Court, Tiruchirappalli.

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

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N.SATHISH KUMAR, J.

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