



C.M.A. (MD)No.457 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 27.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.457 of 2023

and

C.M.P.(MD)No.5770 of 2023

The Managing Director,
M/s.TNSTC, Kumbakonam Division,
Karaikudi.

...Appellant/Respondent

Vs.

1.R.Vijayalakshmi
2.R.Sri Ram
3.Minor R.Meenakshi Sundaram
represented through Natural Guardian/
Mother /1st petitioner Vijayalakshmi
4.P.Subbaiah
5.S.Meenakshi

...Respondents/Petitioners

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the judgment and decree dated 24.08.2022 passed in M.C.O.P.No.257 of 2022 on the file of the Motor Accidents Claims Tribunal (Principal District and Sessions Court), Pudukottai.

For Appellant : Mr.A.V.B.Krishnakanth



WEB COPY



C.M.A. (MD)No.457 of 2023

JUDGMENT

The Civil Miscellaneous Appeal has been filed challenging the compensation awarded by the Motor Accident Claims Tribunal /Principal District and Sessions Court, Pudukottai in M.C.O.P.No.257 of 2022 dated 24.08.2022.

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

3.The brief facts, leading to the filing of the claim petition, are as follows:-

(i)On 03.03.2022, the deceased was travelling in a two wheeler bearing Registration No.TN-55-AJ-9016 from south to north on the left side of the service road. At that time, a bus bearing Registration No.TN-63-N-1917 driven by its driver in a rash and negligent manner without adhering to traffic rules dashed against the two wheeler, as a result, the deceased was thrown away and succumbed to injuries.



C.M.A. (MD)No.457 of 2023

WEB COPY

(ii)The first petitioner is the wife of the deceased, the second and third petitioners are the sons of the deceased and the fourth and fifth petitioners are the parents of the deceased. The deceased was a manufacturer of natural fertilizers and he was earning a sum of Rs.40,000/- by selling the same. Hence, the claim petition was filed.

(iii)The respondent corporation before the Tribunal took a stand that the driver of the respondent corporation drove the bus in a cautious manner. The deceased was rash and negligent in driving his two wheeler and without noticing the bus, he turned his two wheeler. Despite the best efforts to stop the bus, the bus could not be halted.

4.Before the tribunal, on the side of the claimant P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P5 were marked. On the side of the respondents R.W.1 was examined and no documentary evidence was marked. Ex.C1 was also marked.



C.M.A. (MD)No.457 of 2023

5.The tribunal after considering the entire oral and documentary evidence particularly the eye witness and FIR registered against the driver of the bus had come to the conclusion that only the driver of the bus was rash and negligent in driving the vehicle and awarded the compensation as follows:

S.No.	Head	Amount
1.	Loss of dependency	Rs.20,63,880/-
3.	Loss of estate	Rs. 15,000/-
4.	Funeral expenses	Rs. 15,000/-
5.	Filial Consortium to petitioners 2-5	Rs. 40,000/-
6.	Loss of consortium to 1 st petitioner	Rs. 40,000/-
	Total	Rs.21,73,880/-

Challenging the same, the present Civil Miscellaneous Appeal had been filed by the Transport Corporation.

6.Admittedly, the age of the deceased is not disputed. There is evidence to the effect that the deceased was selling natural fertilizers. The Tribunal taking note of these factual aspects, had fixed the notional income of the deceased at Rs.14,110/- and added 25% future prospects and after deducting 1/4 of his income towards his personal expenses, awarded the compensation of Rs.21,73,880/-, which is just and reasonable and the same does not warrant any interference.



C.M.A. (MD)No.457 of 2023

WEB COPY

7. In view of the above, this Court does not find any infirmity in the compensation awarded by the Tribunal. Accordingly, this Civil Miscellaneous Appeal is dismissed.

8. The Transport Corporation is directed to deposit the compensation amount as awarded by the Tribunal with interest and costs from the date of petition till the date of realization to the credit of M.C.O.P.No.257 of 2022, on the file of the Motor Accident Claims Tribunal /Principal District and Sessions Court, Pudukottai, within a period of one month from the date of receipt of a copy of this judgment, less the amount, if any already deposited. On such deposit, the claimants are permitted to withdraw the said amount as apportioned by the Tribunal, less the amount if any already withdrawn, by making necessary application before the Tribunal. No costs.

27.04.2023

NCC : Yes / No
Index : Yes/No
Internet : Yes/No
ta



WEB COPY



C.M.A. (MD)No.457 of 2023

N.SATHISH KUMAR, J.

ta

To

- 1.The Motor Accident Claims Tribunal
Principal District and Sessions Court, Pudukottai
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.

C.M.A.(MD)No.457 of 2023

27.04.2023