



C.M.A(MD)No.249 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.06.2023**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.249 of 2019

and

C.M.P(MD)No.3450 of 2019

The Managing Director,
M/s.Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Bye Pass Road,
Madurai-625 010.

... Appellant/Respondent

Vs.

1.Geetha

2.Dhivya

3.Vivekanandan

4.Nagarethinam

... Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the award and decree made in M.C.O.P.No.4390 of 2013, dated 12.10.2017 on the file of the Motor Accident Claims Tribunal / Special District Court, Tiruchirappalli.

For Appellant : Mr.P.Prabhakaran

For Respondents : No Appearance



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JUDGMENT

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2. According to the learned counsel appearing for the appellant, the deceased is said to be a pedestrian who was walking on the Trichy Chennai Bye-pass road at about 10.00 p.m., on 09.03.2008. According to the claimants, a bus belonging to the transport corporation had dashed against the deceased person and he had succumbed to the injuries. The claimants have contended that the deceased was a Fitter and Pump Operator working in Trichy Distilleries & Chemicals Limited company and he was drawing a salary of Rs.7,000/- per month. The claimants prayed for a compensation of Rs.10,00,000/-.

3. The transport corporation has filed a counter contending that in the F.I.R., the vehicle number was mentioned as TN 74 N 10. However, at the time of filing of claim petition, the claimants have mentioned the vehicle number as TN 74 N 1042. Therefore, they have questioned the involvement of the bus belonging to the transport corporation in the accident. The transport corporation has also questioned the quantum of compensation as prayed for by the claimants.



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4. The tribunal after considering the oral and documentary evidence and relying upon the deposition of the driver of the bus that the said bus was driven during the relevant point of time in the Chennai-Nagercoil bypass road, arrived at a finding that the bus was involved in the said accident. Only due to inadvertence, the last two numbers were not mentioned in the F.I.R. The tribunal further found that the claimants have not established their employment and monthly salary and fixed the notional income at Rs.5,000/-. Based upon the said notional monthly income, the tribunal had deducted 1/4th towards personal expenses and arrived at loss of dependency at Rs.5,85,000/-. The tribunal has further awarded a sum of Rs.10,000/- towards funeral and transportation expenses and a sum of Rs.3,00,000/- towards loss of love and affection. The tribunal has further awarded a sum of Rs.1,00,000/- towards loss of consortium. In total, a sum of Rs.9,95,000/- has been awarded towards compensation. This award is under challenge in the present appeal.

5. According to the learned counsel appearing for the appellant/transport corporation, the tribunal has not properly appreciated the stand taken by the corporation that the vehicle number has not been properly mentioned in the F.I.R. However, this Court is not inclined to accept the said contention in view of the deposition made on the side of



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the driver of the transport corporation, who was examined as R.W.1.

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6. As rightly pointed out by the learned counsel appearing for the appellant, the tribunal has awarded a sum of Rs.3,00,000/- towards loss of love and affection and another sum of Rs.1,00,000/- towards loss of consortium which seems to be in the higher side. In view of the above said facts, this Court is inclined to modify the award in the following manner:

Loss of dependency	: Rs.5,85,000/-
Funeral expenses	: Rs. 20,000/-
Transportation charges	: Rs. 10,000/-
Loss of consortium	: Rs. 40,000/-
Loss of love and affection to the claimants 2 to 4	: Rs.1,20,000/-

Total	: Rs.7,75,000/-

7. In view of the above said deliberations, the award of the tribunal is modified and reduced from Rs.9,95,000/- (Rupees Nine Lakh and Ninety Five Thousand only) to Rs.7,75,000/- (Rupees Seven Lakh and Seventy Five Thousand only). Out of the said award amount, the 1st



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shall be entitled to a sum of Rs.2,00,000/-. The balance amount shall be shared by the claimants 3 and 4 equally.

8. With the said observations, this Civil Miscellaneous Appeal stands allowed to the extent as stated above. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

06.06.2023

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 Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR,J.

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Judgment made in
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