



C.M.A.(MD).No.362 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.04.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD).No.362 of 2023

and

C.M.P.(MD).No.4465 of 2023

The Branch Manager,
Tamil Nadu State Transport Corporation,
Pudukottai Region,
Pudukottai.

... Appellant

Vs.

1.Sesbesthiyan
2.Punitha Ranjitham
3.Sundaram

... Respondents

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the order passed in M.C.O.P.No.82 of 2016 on the file of the Motor Accident Claims Tribunal – cum – Subordinate Judge, Devakottai, dated 17.09.2018.

For Appellant : Mr.S.Madasamy

For Respondents : Mr.J.Anand Kumar



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J U D G M E N T

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Challenging the award passed by the Motor Accident Claims Tribunal, Subordinate Judge, Devakottai in M.C.O.P.No.82 of 2016, dated 17.09.2018, the present appeal has been filed.

2. The main ground in this appeal is there is no negligence on the part of the driver of the appellant Corporation bus and the Tribunal has also adopted multiplier '18' instead of '15', which is applicable to the minor. Besides, towards love and affection, Rs.1,00,000/- each awarded, which is also against the settled position of law. Hence, this appeal has been filed.

3. The petitioners are the parents of the minor child. On 21.12.2014, at about 8.15 p.m., when the first claimant riding his motorcycle bearing Registration No.TN 63 AE 6841 along with his minor child aged about 12 years, from Soodamani to Barma Colony, the bus bearing Registration No.TN 55 N 0475 belonging to the Corporation came in a rash and negligent manner and dashed against the motorcycle from the behind. As a result, the minor boy succumbed to injuries and a crime also registered against the driver of the Corporation bus. Before the Tribunal, the contention of the Corporation is that the accident took place due to rash and negligent driving of the first petitioner



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and while trying to overtake a car, he dashed against the bike. Hence, disputed the liability.

4. On the side of the claimants, P.Ws.1 and 2 were examined and Exs.P1 to P5 were marked and on the side of the respondents, R.W.1 was examined. On perusal of the entire evidence, the Tribunal has awarded a sum of Rs. 7,70,000/- in the following manner:

S. No	Description	Amount awarded by the Tribunal
1.	Loss of dependency	Rs.5,40,000/-
2.	Love and affection (Rs. 1,00,000/- x 2)	Rs.2,00,000/-
3.	Transportation	Rs.15,000/-
4.	Funeral expenses	Rs.15,000/-
	Total	Rs.7,70,000/-

Challenging the same, the present appeal has been filed.

5. Mr.J.Anand Kumar, learned counsel takes notice for the respondents.

6. By consent, the appeal is taken up for final disposal at the admission stage itself.



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7. The evidence of P.W.1 clearly shows that the driver of the Corporation bus drove the vehicle in a rash and negligent manner and hit against the motorcycle from the behind and he has not maintained a reasonable distance. Therefore, only the driver of the Corporation bus was negligent and caused the accident. As far as the quantum of compensation fixed by the Tribunal is concerned, the deceased is aged about 12 years/minor.

8. In such a view of the matter, the Tribunal ought to have adopted '15' multiplier instead of '18'. Thus, the total loss of dependency would be Rs. 4,50,000/-. That apart, the Tribunal has awarded a sum of Rs.2,00,000/- towards loss of love and affection, which is also excess and the same is reduced to Rs. 80,000/- (Rs.40,000/- each) and the other aspects are confirmed.

9. In the result, the Civil Miscellaneous Appeal is allowed and the award amount is modified from Rs.7,70,000/- to Rs.5,60,000/- with interest at the rate of 7.5% per annum. 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 amount equally. No costs. Consequently, the connected



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Miscellaneous Petition is closed. Consequently, the connected Miscellaneous
Petition is closed.

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akv

To

The Motor Accident Claims Tribunal,
Subordinate Judge,
Devakottai.



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N.SATHISH KUMAR,J.

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