



C.M.A.(MD).No.821 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.04.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD).No.821 of 2022

1.A.Mohan

2.M.Prabhakaran

3.M.Suriyaprakash

... Appellants

Vs.

1.The Managing Director,

M/s. Tamil Nadu State Transport Corporation Limited,

Virudhunagar,

Virudhunagar District.

2.K.Vasanthi

3.M/s.Cholamandalam M.S. General

Insurance Company Limited,

Mohana Complex, Ground Floor,

D.No.808, 809,

Trichy Madurai Main Road,

Melur,

Madurai District.

... Respondents

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 01.04.2022 in M.C.O.P.No.1436 of 2018 on the file of the Motor Accident Claims Tribunal, District and Sessions Judge, Communal Clash Cases Court, Madurai.

For Appellants : Mr.K.Kumaravel

For R1 : Mr.K.Sudalaiyandi

For R2 & R3 : No appearance



C.M.A.(MD).No.821 of 2022

J U D G M E N T

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Not satisfied with the quantum of compensation awarded by the Motor Accident Claims Tribunal, the present appeal has been filed by the claimants.

2. On 03.10.2018, at about 14.45 hours, while the first petitioner drove the APE load auto bearing Registration No.TN 59 BX 2104 from Melur to Madurai carrying gym equipment, the first respondent's driver drove the bus bearing No.TN 67 0907 from East to West in a rash and negligent manner and dashed against the auto from the behind. As a result, the deceased succumbed to injuries and the crime also registered against the driver of the Corporation bus. The stand of the first respondent / Transport Corporation is that the driver of the Corporation bus driven the bus in a cautious manner and only the driver of the auto driven the auto in a rash and negligent manner. The second respondent, the owner of the auto took a stand that the auto was insured with the third respondent / Insurance Company. The third respondent also took a stand that it is only the driver of the Corporation bus driven the vehicle in a rash and negligent manner which resulted in the accident.

3. Before the Tribunal, on the side of the claimants, P.W.1 was examined and Exs.P1 to P14 were marked and on the side of the respondents, R.W.1 was



C.M.A.(MD).No.821 of 2022

examined and no document was marked.

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4. Considering the evidence of the eye witness and no contra evidence filed to disprove the evidence of P.W.1, the Tribunal found that the driver of the offending bus is responsible for the accident. Considering the fact that the deceased was aged about 46 years, the Tribunal has fixed the notional income at Rs.6,000/- and added 25% towards future prospects and deducted 1/3rd towards personal expenses and finally awarded a sum of Rs.9,30,000/- as compensation in the following manner:

S. No	Description	Amount awarded by the Tribunal
1.	Loss of Pecuniary Benefits	Rs.7,80,000/-
2.	Loss of estate	Rs.15,000/-
3.	Funeral Expenses	Rs.15,000/-
4.	Consortium	Rs.1,20,000/-
	Total	Rs.9,30,000/-

5. Not satisfied with the quantum of compensation, the present appeal has been filed by the husband and the sons of the deceased. The only contention raised by the learned counsel appearing for the appellants is that the deceased was not only a home maker but also running a beauty parlour and P.W.1 also clearly stated in his evidence that she was running a beauty parlour and no



C.M.A.(MD).No.821 of 2022

contra evidence on this aspect.

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6. The only point arise for consideration in this appeal is whether the Tribunal is right in fixing the notional income at the rate of Rs.6,000/-. Admittedly, the deceased was aged about 46 years. The evidence of P.W.1 itself clearly indicate that deceased was running a beauty parlour and in fact, the accident itself occurred while carrying goods to the beauty parlour and the same has not been taken note of. Considering this aspect, this Court is of the view that the deceased would have earned minimum Rs.12,000/-.

7. In such a view of the matter, the notional income fixed by the Tribunal is enhanced to Rs.12,000/- and added 25% towards future prospects and after deducting 1/3rd towards personal expenses, the loss of income comes to Rs. 10,000/- (Rs.12,000/- +3,000/- -Rs.5,000/-). Thus, the total loss of income comes to Rs.15,60,000/- (Rs.10,000/- x 12 x 13 = Rs.15,60,000/-). The amount awarded by the Tribunal under the heads of loss of estate at Rs.15,000/-, funeral expenses at Rs.15,000/- and consortium at Rs.1,20,000/- remains unaltered and the same are confirmed. Thus, the total compensation payable to the appellants/claimants is Rs.17,10,000/-.



C.M.A.(MD).No.821 of 2022

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8. In the result, this Civil Miscellaneous Appeal is allowed. The first respondent/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 first appellant is entitled to receive a sum of Rs. 5,10,000/- and the appellants 2 and 3 each entitled to receive a sum of Rs. 6,00,000/- along with interest at 7.5% per annum. No costs.

05.04.2023

akv

To

- 1.The Motor Accident Claims Tribunal, District and Sessions Judge,
Communal Clash Cases Court,
Madurai.
- 2.The Managing Director,
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Virudhunagar,
Virudhunagar District.
- 3.M/s.Cholamandalam M.S. General
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C.M.A.(MD).No.821 of 2022

N.SATHISH KUMAR,J.

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C.M.A.(MD).No.821 of 2022

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