



C.M.A.(MD).No.337 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.04.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD).No.337 of 2023

and

C.M.P.(MD).No.4213 of 2023

M/s.Tamil Nadu State Transport Corporation Limited,
represented by its General Manager,
Bye Pass Road,
Madurai now bifurcated as
M/s. Tamil Nadu State Transport Corporation Limited,
represented by its General Manager,
Tirunelveli.

... Appellant

Vs.

- 1.P.Subbulakshmi
- 2.Minor P.Vishal Anup
represented through his mother first petitioner
- 3.Minor P.Surya Prakash
represented through his mother 1st petitioner
- 4.Lakshmi

Cause title is accepted vide Court order dated 25.08.2022
made in C.M.P.(MD).No.7567 of 2022 in
C.M.A.(MD).SR.No.49800 of 2022.

... Respondents

PRAYER: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, 1988, against the award dated 16.02.2022 passed in M.C.O.P.No.408 of 2019 by the Motor Accident Claims Tribunal, Special District Court, Madurai.



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For Appellant : Mr.R.Rajamohan

For R1 to R3 : Mr.K.Murugesan

J U D G M E N T

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

2. The brief facts leading to the filing of this appeal are as follows:

On 08.07.2018, at about 14.45 hours, while the deceased Panchavarnam riding his motorcycle bearing Registration No.TN 64 M4639 along with his wife and minor children at Madurai Ring Road, the Corporation bus bearing Registration No.TN 72 N 2052 came in a rash and negligent manner and dashed against the vehicle from the behind. As a result, the deceased succumbed to injuries. The deceased was aged about 37 years, at the time of accident and he was a Mason by profession. Hence, the petitioners have filed the claim petition before the Tribunal seeking compensation. It is the case of the respondent that only the deceased drove the motorcycle in a rash and negligent manner and lost the balance and skid over the mud and fell down into the left side wheel of the respondent Corporation bus. As a result, the accident had happened.



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3. To prove the claim of the petitioners, P.W.1 was examined and Exs.P1 to P21 were marked and on the side of the respondents, R.W.1 was examined and no document was marked.

4. On perusal of the documents, the Tribunal has come to the conclusion that only the driver of the Corporation bus drove the bus in a rash and negligent manner and dashed against the motorcycle from the behind. The Tribunal also fixed the notional income at Rs.15,000/- per month and awarded a sum of Rs. 30,30,000/- including all other conventional heads. Challenging the same, the present appeal has been filed by the Transport Corporation.

5. The only ground raised by the learned counsel for the appellant is that the quantum fixed by the Tribunal is not correct and the Tribunal has wrongly adopted the notional income at Rs.15,000/- and the other aspects have not been challenged.

6. Heard the learned counsel for the appellant and the learned counsel appearing for the respondents 1 to 3.



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7. The contention of the learned counsel for the appellant is that the Tribunal ought not to have fixed the notional income at Rs.15,000/- which is an excess and the quantum fixed by the Tribunal is not proper. It is an admitted fact that the deceased is a Mason by profession and was resident of Madurai. This Court, in the case of *Saritha v. Siva* reported in **2020 (2) TN MAC 404** clearly held that 'for instance, per day wages for a Mason in a Rural area may be Rs.400 to Rs.500 and in a semi urban areas, it may be Rs.600/- to Rs.700/- and in urban areas, it may be Rs.800 to Rs.900 or even Rs.1,000. In Cities like Chennai, even it may be Rs.1,100/- or Rs.1,200/-. In such circumstances, since the deceased was resident of Madurai, the Tribunal has fixed a sum of Rs. 15,000/- as notional income.

8. Now, the point arise for consideration in this appeal is whether the Tribunal is right in fixing the notional income at Rs.15,000/- per month. It is not in dispute that the deceased was aged about 37 years and his profession is also Mason and the person like a Mason easily get Rs.500/- per day. In such a view of the matter, the notional income fixed by the Tribunal does not require any interference. The Tribunal, after deducting 1/4th towards personal expenses, awarded a sum of Rs.30,00,000/- as total compensation including all other



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conventional heads. The other aspects have not been disputed. In such a view of the matter, there is no merit in this appeal and the same is dismissed.

Accordingly, the award passed by the Motor Accident Claims Tribunal, Special District Court, Madurai in M.C.O.P.No.408 of 2019, dated 16.02.2022 is confirmed. No costs. Consequently, the connected Miscellaneous Petition is closed.

10.04.2023

akv

To

The Motor Accident Claims Tribunal,
Special District Court,
Madurai.



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N.SATHISH KUMAR,J.

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