



C.M.A(MD)No.224 of 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.01.2023

CORAM

**THE HON'BLE DR JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

C.M.A(MD)No.224 of 2014
and
M.P(MD)No.1 of 2014

The Managing Director,
State Express Transport Corporation Limited,
Pallavan Salai,
Chennai-600 002

.. Appellant/Respondent

Vs.

1.M.Suganya
2.Minor S.Nagulesh
3.Minor S.Rithish
4.P.Mondaiambalam (died)
5.M.Iyyammal

.. Respondents/Petitioners

*(Minor 2 & 3 represented by their mother
the first respondent)*

6.P.M. Vanmathi
7.V.Vasuki
8.A.Parameswari
9.Kameswaran

.. Respondents 6 to 9

*(R6 to R9 are impleaded vide order dated
20.01.2023, in C.M.P(MD)No.11332 of 2014)*



C.M.A(MD)No.224 of 2014

Appeal filed under Section 173 of Motor Vehicles Act, 1988, praying this Court, against the judgment and decree in M.C.O.P.No.1049 of 2010 dated 27.06.2012 on the file of the Motor Accidents Claims Tribunal/IV Additional District Court, Madurai.

For Appellant :Mr.P.Prabhakaran

For R1 to R3,
R5 to R9 :Mr.S.Sankarapandian

For R4 : Died

JUDGMENT

DR G.JAYACHANDRAN,J.
and
SUNDER MOHAN,J.

This appeal is preferred by the Transport Corporation as against the award passed by the Tribunal in M.C.O.P.No.1049 of 2010 filed by one Suganya and others for the loss of income and dependency of the deceased P.M.Sureshkumar, aged about 34 years.

2.This appeal is filed by the Transport Corporation on the ground that the Tribunal has not considered the contributory negligence of the rider of the two wheeler, who has caused accident without having an effective driving license. Also the quantum is being challenged on the ground that the claimants have not proved the loss of income.



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3.This Court, on considering the fact that the accident has occurred on 31.03.2010, while one Kameswaran was a pillion in the two wheeler and the vehicle was driven by his brother P.M.Sureshkumar, the deceased, near Thirumangalam to Melur Main road, the two wheeler and the Transport Corporation bus bearing Registration No.TN-01-N-7007 colluded and in the accident, P.M.Sureshkumar died on the spot and the pillion rider Kameswaran sustained grievous injuries. The medical certificate of Kameswaran indicates that he has sustained 45 % permanent disability and for his injuries Kameswaran has filed separate claim petition.

4.As far as P.M.Sureshkumar is concerned, a claim petition was filed claiming Rs.20,00,000/- as compensation on the premise that he is an Agriculturists, Finance and Contractor had sufficient income and due to his sudden death, his wife and two minor children and parents have lost their dependency and his income.

5.To substantiate the claim, income tax returns and the diploma certificates were marked. The Tribunal, after considering the proof of income and the plea of dependency, has awarded a sum of Rs.20,00,000/- as



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compensation. The said award is now challenged in the present Civil Miscellaneous Appeal.

6.After hearing the counsel at length, this Court finds that though no compensation for future prospects is being awarded, the claim of the Transport Corporation that the deceased had no valid license is being negated by the Tribunal. At this length of time, no interference is required in the award amount, since this Court finds that though the claim made by the dependants of the deceased Sureshkumar, has been awarded in full without any reduction, the deceased was aged about 34 years at the time of accident. He is a Diploma Holder in Civil engineering. His income was assessed to tax. Relying upon the income tax returns filed for 3 years prior to his death, the income of the deceased fixed as Rs.1,63,000/- p.a., without taking into account the future prospect and award of Rs.20,00,000/- passed. This Court unable to find any error in assessment of loss. The award amount with interest to be apportioned among the claimants as per the Tribunal order. The shares of the minor claimants to be invested in the bank, till they attain majority.



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7. Therefore, this Civil Miscellaneous Appeal is dismissed. The award of the Tribunal is confirmed and the award amount along with accrued interest to be paid to the claimants within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

(G.J.,J.) (S.M.,J.)
20.01.2023

NCC: Yes/No
Index: Yes/No
Internet: Yes/No
Ns
To

1. The Motor Accidents Claims Tribunal/
IV Additional District Court,
Madurai.

2. The Section Officer,
VR Section,
Madurai Bench of Madras
High Court,
Madurai.



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