



C.M.A. (MD)No.1197 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.1197 of 2022

and

C.M.P.(MD) No.12196 of 2022

The Managing Director,
State Express Transport Corporation Tamil Nadu Ltd.,
Thiruvalluvar, Pallavan Salai,
Chennai.

...Appellant/Respondent

Vs.

D.Saroja (died)

D.Ashok

...Respondent/Petitioner

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the order dated 19.11.2019 made in M.C.O.P.No. 4414 of 2013 on the file of the Special District Court, Motor Accident Claims Tribunal, Trichy by allowing this Civil Miscellaneous Appeal.

For Appellant : Mr. K.A.Thirumalaiappan

For Respondent : No appearance



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JUDGMENT

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This Civil Miscellaneous Appeal has been filed challenging the award passed by the Motor Accident Claims Tribunal, Special District Court, Trichy in M.C.O.P.No.4414 of 2013 dated 19.11.2019.

2.The brief facts, leading to the filing of the claim petition, are as follows:-

(i)For the sake of convenience, the parties herein are referred to as per their rank before the Trial Court.

(ii)the deceased, namely Panneer Selvam was running a provisional store at Siruganoor, Trichy and he was earning a sum of Rs.30,000/-. On 24.02.2005 at about 05.30 p.m., while the deceased was riding his TVS Suzuki vehilce in Trichy to Chennai road on its left side slowly and cautiously, the bus bearing Registration No.TN-07-N-1991 belonging to the respondent corporation was driven in a rash and negligent manner and dashed against the deceased, due to which the deceased succumbed to injuries.



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(iii) the respondent corporation before the trial Court took a stand that the driver of the bus had driven the bus slowly and carefully at the extreme left side of the road and stopped the bus behind a lorry. At the time, the deceased drove his motorcycle in a rash and negligent manner and dashed against the bus.

3.Before the tribunal, on the side of the claimants P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P6 were marked. No oral and documentary evidence were marked on the side of the respondent corporation.

4.The tribunal after analyzing the evidence of P.W.2 and also FIR filed against the driver of the bus has fixed the negligence on the part of the driver of the bus and considering the age of the deceased had fixed the total income at Rs.4,000/- per month. The tribunal has also taken note of the future prospects at the rate of 40% as per the dictum laid down by the Hon'ble Supreme Court in the case of *National Insurance Company Ltd., vs. Pranay Sethi and others* [CDJ 2017 SCC 1220]. After deducting 1/2 of the amount for the personal expenses of the deceased, since he is a bachelor, the Tribunal has awarded the following compensation:



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S.No.	Head	Amount
1.	Loss of Dependency	Rs.3,37,600/-
2.	Filial Consortium to 2 nd petitioner, brother of the deceased	Rs. 30,000/-
3.	Loss of Estate	Rs. 15,000/-
4.	Funeral Expenses	Rs. 15,000/-
	Total	Rs.5,97,600/-

Challenging the same, the present Civil Miscellaneous Appeal has been filed by the Transport Corporation.

5.On perusal of the entire evidence and materials and the award passed by the Tribunal, this Court does not find any infirmity in the compensation awarded by the Tribunal. Further, the claim petitioner was also filed under Section 163 (A) of the Motor Vehicles Act and hence, the negligence need not be proved. Despite the petitioner filed under Section 163(A) of the Motor Vehicles Act, the evidence also establishes that the negligence is on the part of the driver of the bus belonging to the appellant corporation. Hence, I do not find any merit in this appeal. Accordingly, this Civil Miscellaneous Appeal is dismissed.



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6.The appellant is directed to deposit the entire compensation amount as awarded by the Tribunal with accrued interest and costs to the credit of M.C.O.P.No.4414 of 2013, on the file of the Motor Accident Claims Tribunal / Special District Court, Trichy within a period of one month from the date of receipt of copy of this judgment, less the amount, if any already deposited. On such deposit, the claimant is permitted to withdraw the award amount, less the amount, if any already withdrawn, by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

14.03.2023

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

- 1.The Motor Accident Claims Tribunal
Special District Court, Trichy.
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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N.SATHISH KUMAR, J.

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