



C.M.A.(MD)No.394 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.394 of 2023

and

C.M.P.(MD)No.4683 of 2023

State Express Transport Corporation Ltd.,
Through its Managing Director having its office at
No.2, Pallavan Salai,
Thiruvalluvar House,
Chennai-600 002.

...Appellant/Respondent

Vs.

1.P.Karuppasamy
2.P.Sudalaiammal

...Respondents/Petitioners

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the award made in M.C.O.P.No.1673 of 2019 dated 17.11.2021 on the file of the Motor Accident Claims Tribunal /IV Additional District Court, Tirunelveli.

For Appellant : Mr.P.Prabhakaran



WEB COPY



C.M.A.(MD)No.394 of 2023

JUDGMENT

This Civil Miscellaneous Appeal is filed challenging the quantum fixed by the Motor Accident Claims Tribunal /IV Additional District Court, Tirunelveli in M.C.O.P.No.1673 of 2019 dated 17.11.2021.

2.For the sake of convenience, the parties herein are referred to as per their rank before the Tribunal.

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

(i)On 17.05.2019 at about 19.00 hours the deceased was crossing the Tirunelveli-Madurai four way road from south to north. At that time, the bus bearing Registration No.TN-01-AN-0937 was driven in a rash and negligent manner and dashed against the deceased. As a result, the deceased succumbed to injuries.

(ii) the petitioners are the children of the deceased. The deceased was working as an agricultural Coolie and earning a sum of Rs.15,000/- per month. Hence, the claim petition was filed.



C.M.A.(MD)No.394 of 2023

WEB COPY

4.The respondent before the Tribunal took a stand that the deceased had crossed the road suddenly and despite the driver of the bus applied break, he could not avert the accident.

5. Before the tribunal, on the side of the claimants P.W.1 and P.W.2 were examined and Ex.P1 to Ex.P10 were marked. On the side of the respondents no oral and documentary evidence were marked.

6.The Tribunal considering the evidence of P.W.1 and P.W.2 and the fact that the driver of the bus was not examined, had fixed the negligence on the part of the deceased at 30% and 70% at the driver of the bus and awarded the compensation of Rs.2,83,500/-

7.Now, the quantum awarded by the Tribunal is only under challenge in this appeal.

8.On perusal of the award passed by the Tribunal, it is clear that the Tribunal had fixed the monthly income of the deceased at Rs.9,000/- and directed



C.M.A.(MD)No.394 of 2023

the respondent to pay a sum of Rs.2,83,500/- with proportionate interests at the rate of 7.5% by applying relevant multiplier.

9.Admittedly, the deceased is an Agricultural Coolie and aged about 69 years. Merely because the deceased is aged about 69 years, it cannot be presumed that the deceased did not have the capacity to earn any money. Therefore, the fixation of monthly income of the deceased at Rs.9,000/- by the Tribunal cannot be found fault. Further, the Tribunal had also fixed 30% negligence on the part of the deceased. Hence, the award passed by the Tribunal is just and reasonable and the same does not warrant any interference.

10.For the reasons stated above, I find no merits in this appeal. Accordingly, the Civil Miscellaneous Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

18.04.2023

NCC : Yes / No
Index : Yes/No
Internet : Yes/No
ta

4/6



C.M.A.(MD)No.394 of 2023

WEB COPY

- To
- 1.The Motor Accident Claims Tribunal,
IV Additional District Court, Tirunelveli.
 - 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A.(MD)No.394 of 2023

N.SATHISH KUMAR, J.

ta

C.M.A.(MD)No.394 of 2023

18.04.2023