



C.M.A.(MD).No.152 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.152 of 2020

The Managing Director,
Tamil Nadu State Transport
Corporation Limited,
Madurai.

..... Appellant/ Respondent

-VS-

1. Subbulakshmi
2. M.Rajanila
3. Minor.Raksha Nivasini
4. Ramar

... Respondents/ Claimants

(Minor 3rd respondent represented by through her
Mother and Natural Guardian of the first respondent)

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgment and decree passed in MCOP No.102 of 2015, dated 07.03.2017 on the file of the Motor Accidents Claims Tribunal and Special District Court, Madurai.

For Appellant : Mr.K.Sudalaiyandi

For Respondents : No appearance



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J U D G M E N T

The present appeal has been filed by the Transport Corporation challenging the award of the Motor Accidents Claims Tribunal/Special District Court Madurai, primarily on the ground of negligence and the quantum.

2. According to the claimants, the deceased was an Administrative Officer working in a Business Agency. While the deceased was travelling in his two wheeler on 13.10.2014 at about 10.45 a.m and was waiting near the divider of the cross the road, the bus belonging to the respondent Corporation which was driven in a rash and negligent manner, dashed against the two wheeler and the deceased had fallen down and due to multiple injuries, he passed away on 15.10.2014.

3. According to the claimants, the deceased was earning a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) per month and hence, they claimed a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs only) as compensation.



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4. The respondent had filed a counter contending that the bus was driving only by following the traffic rules. The deceased was driving the two wheeler in a rash and negligent manner and he had dashed against the bus and fallen down and passed away. Therefore, the deceased alone was responsible for the said accident. The Corporation has also paid the quantum of compensation as prayed for by the claimants.

5. The Tribunal, after considering the oral and documentary evidence, came to a conclusion that the driver of the first respondent Corporation alone was responsible for the said accident. The Tribunal further found that the claimants have not established the monthly income of Rs.25,000/- (Rupees Twenty Five Thousand only) and ultimately, arrived at a notional income of Rs.6,500/-. After deducting 1/4th towards personal expenses and applying multiplier of “14” awarded the total compensation under the head of loss of income of Rs.8,19,000/- (Rupees Eight Lakhs and Nineteen Thousand only) and another sum of Rs.50,000/- (Rupees Fifty Thousand only) towards love and affection and another sum of Rs.50,000/- (Rupees Fifty Thousand only) towards loss of consortium, a sum of Rs.25,000/- (Rupees Twenty Five



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Thousand only) towards funeral expenses and total award amount was fixed at Rs.9,44,000/- (Rupees Nine Lakhs and Forty Four Thousand only). This award is under challenge in the present appeal.

6. According to the learned counsel appearing for the appellant/ Transport Corporation, the rider of the two wheeler was attempting to cross the road without waiting for the movement of the bus. In fact, when he had attempted to cross the road, the two wheeler got dashed against the road divider and he has fallen down, he sustained injury and passed away. Therefore, the Transport Corporation was in no way responsible for the said accident. He further contended that the driver of the bus has been examined as RW.1 and he had supported the case of the Transport Corporation as stated in the counter. Therefore, when the negligence was on the part of the deceased person, the Transport Corporation was not liable to pay any compensation. He further contended that the claimants have not established the monthly income of the deceased person and therefore, the Tribunal ought not to have fixed the higher notional income of Rs.6,500/- (Rupees Six Thousand and Five Hundred only) per month. Hence, he prayed for allowing the appeal.



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7. Though the respondents 1 and 3 have been served, they neither appeared in person or through their counsel and the respondents 2 and 4 have not been served.

8. The primary contention of the learned counsel appearing for the appellant is that the deceased alone was responsible for the accident. He further contended that the bus belonging to the Transport Corporation had not dashed against the two wheeler. But on the other hand, the two wheeler rider had dashed against the road divider and he had fallen down and passed away. However, a perusal of the Ex.P.8- Motor Vehicle Inspector's Report will clearly indicate that the front portion of the bus has been damaged. Therefore, it is clear that the contention of the Transport Corporation that there was no impact of the bus on the two wheeler, is not factually correct and only because of the impact of the bus on the two wheeler, the front portion of the bus was damaged. Therefore, the Tribunal was right in holding that the accident has taken place only due to the rash and negligent driving of the driver of the respondent Corporation.



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9. As far as the quantum is concerned, the claimants have contended that the deceased was earning a sum of Rs.25,000/- However, there was no document on record to establish the said income. Therefore, the Tribunal was constrained to rely upon the Judgment of our High Court reported in **2015 (1) TNMAC- 514 (Managing Director, Tamil Nadu State Transport Corporation, Villupuram Limited Vs. Panchavarnam and another)** to fix the notional monthly income at Rs.6,500/-. Thereafter, the Tribunal has properly deducted the 1/4th of monthly income towards personal expenses and applied the correct multiplier of “14”. The award of the Tribunal under the conventional heads are also not excessive.

10. In view of the above said deliberations, this Court does not find any reason to interfere in the appeal. Hence, this Civil Miscellaneous Appeal is dismissed. There shall be no order as to costs.

20.04.2023

NCC : Yes/No
Index : Yes / No
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To

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



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R.VIJAYAKUMAR,J.

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