



C.M.A(MD)No.727 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.06.2023**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.M.A(MD)No.727 of 2019

and

C.M.P(MD)No.9308 of 2019

M/s.Tamil Nadu State Transport Corporation,
Through its Managing Director,
Karaikudi,
Sivagangai District.

... Appellant/Respondent

Vs.

1.Kalanjian

... Respondent/1st Petitioner

2.Divya

... Respondent/2nd Petitioner

3.Ajeeth

... Respondent/3rd Petitioner

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, Special District Court, Madurai in M.C.O.P.No.109 of 2016, dated 24.11.2017.

For Appellant : Mr.D.Sivaraman

For Respondents : No Appearance



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JUDGMENT

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The present appeal has been filed by the transport corporation against the award passed by the Motor Accident Claims Tribunal, Madurai in M.C.O.P.No.109 of 2016 challenging negligence.

2. According to the claimants, the deceased was a coolie aged about 44 years and he had alighted into the bus belonging to the transport corporation on 22.03.2016 at about 1.30 p.m and he met with an accident. He was thrown away from the said bus and sustained injuries and he had passed away. The claimants sought for a sum of Rs.7,00,000/- as compensation.

3. The transport corporation has filed a counter contending that the deceased was not keeping good mental health and he had suddenly got down from the running bus and he sustained injuries and he had passed away. Therefore, the transport corporation is not liable to pay any compensation whatsoever.

4. The tribunal after considering the oral and documentary evidence, arrived at a finding that there are no doors in the said bus which was plying between Ramnad and Madurai and this has resulted in



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throwing away of the claimant outside the bus. Therefore, the corporation alone is liable to pay the compensation. The tribunal further fixed the monthly notional income at Rs.3,000/- and after deducting 1/3rd towards personal expenses, it arrived at a monthly income of Rs.2,000/-. Applying a multiplier of 11, the tribunal arrived at the total loss of income at Rs.2,64,000/-. The tribunal has awarded a sum of Rs.25,000/- towards loss of consortium, a sum of Rs.25,000/- to the claimants 2 and 3 each for loss of love and affection, a sum of Rs.10,000/- towards funeral expenses, a sum of Rs.10,000/- towards transportation charges and a sum of Rs.1,000/- towards loss of estate. Totally, a sum of Rs.3,60,000/- was awarded. Challenging the same, the present appeal has been filed by the transport corporation.

5. According to the learned counsel appearing for the appellant, the deceased was not having good mental health and he had suddenly jumped from the moving bus. Therefore, the driver or the conductor cannot be held responsible for the said accident and the deceased alone has to be blamed for the accident. He further contended that the registration of F.I.R as against the driver of the transport corporation bus alone is not sufficient to fix the negligence as against the said driver. He further contended that the tribunal has not properly considered the oral and documentary evidence and has erroneously arrived at a finding that



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there was negligence on the part of the driver of the transport corporation. He further questioned the quantum of compensation as fixed by the tribunal. Hence, he prayed for allowing the appeal.

6. The claimants could not be served for want of correct address.

7. I have carefully considered the submissions made on the side of the appellant and perused the records.

8. It is a specific case of the claimants that the deceased was thrown away from the running bus and he had sustained injuries and passed away. However, according to the learned counsel appearing for the transport corporation, the deceased was not keeping good mental health and he himself had attempted to alight from a running bus and he sustained injuries and passed away. Therefore, it is clear that the driver or the conductor have not taken enough care to find out whether any person was attempting to alight from the running bus or not. Though the corporation has contended that the deceased was not keeping good mental health, no oral or documentary evidence have been produced in order to establish the same. Therefore, this Court does not find any reason to disturb the findings of the tribunal with regard to the negligence on the part of the driver of the appellant corporation.



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9. As far as the quantum of compensation is concerned, the tribunal has taken the notional monthly income at Rs.3,000/- for the deceased, who is said to be a coolie. The award amount under the other conventional heads are also neither unreasonable nor excessive. Therefore, this Court does not find any reason to interfere in the quantum of the award. There are no merits in the appeal.

10. Hence, the Civil Miscellaneous Appeal stands dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

06.06.2023

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

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To

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

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



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R.VIJAYAKUMAR,J.

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Judgment made in
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