



C.M.A. (MD)No.797 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.797 of 2022

Tamil Nadu State Transport Corporation Limited,
through its Managing Director,
office at No. .. Trivandrum Road,
Vannarapettai,
Tirunelveli.

...Appellant/1st Respondent

Vs.

1.Jeyakali (died)
2.Pushparaj

....1st Respondent/Petitioner

3.Shriram General Insurance Company Limited,
Through its Branch Manager,
Office at No.E8, R11 Co Industrial Area,
Sitapura, Jaipur, Rajasthan

...Respondents 2 & 3/
Respondents 2 & 3

4.Esakkimuthu
5.Karupasamy

...Respondents

[Respondents 4 and 5 were brought on *record* as legal heirs of the
deceased first respondent vide *Court* order dated 03.10.2019]

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the award and decree made in M.C.O.P.No.316 of 2015 dated 20.09.2017 on the file of the Motor Accident Claims Tribunal /Special



C.M.A. (MD)No.797 of 2022

Sub Court, Tirunelvelito set aside the judgment and decree dated 24.08.2022 passed in M.C.O.P.No.257 of 2022 on the file of the Motor Accidents Claims Tribunal (Principal District and Sessions Court), Pudukottai.

For Appellant : Mr.P.Prabhakaran
For R2 : No Appearance
For R3 : Mr.V.Sakthivel
For R4 & R5 : Mr.J.Selvakumaran

JUDGMENT

The Civil Miscellaneous Appeal has been filed challenging the compensation awarded by the Motor Accident Claims Tribunal / Special Sub Court, Tirunelveli in M.C.O.P.No.316 of 2015 dated 20.09.2017.

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 29.01.2015, the injured was travelling in a bus belonging to the first respondent bearing Registration No.TN-74-N-1402. The bus was driven in a rash



C.M.A. (MD)No.797 of 2022

and negligent manner and dashed against the lorry, which came in an opposite direction. As a result, the petitioner sustained grievous injuries. Hence, the claim petition was filed.

(ii) The third respondent took a stand that the bus was driven in a rash and negligent manner and hence, the accident had occurred.

(iii) The respondent corporation before the Tribunal took a stand that the driver of the respondent corporation drove the bus in a cautious manner. The driver of the lorry was only rash and negligent in driving his vehicle.

4. Before the tribunal, on the side of the claimant P.W.1 to P.W.5 were examined and Ex.P1 to Ex.P15 were marked. On the side of the respondents R.W.1 was examined and Ex.R1 was marked.

5. The tribunal after considering the entire oral and documentary evidence particularly the evidence of eye witness and FIR registered against the driver of the bus had come to the conclusion that only the driver of the bus was rash and negligent in driving the vehicle and awarded the compensation as follows:



C.M.A. (MD)No.797 of 2022

WEB COPY

S.No.	Head	Amount
1.	Loss of income	Rs. 6,63,600/-
2.	Amount as per Ex.P3	Rs. 2,43,000/-
3.	Amount as per Ex.P4	Rs. 1,84,935/-
4.	Amount as per Ex.P6	Rs. 24,000/-
5.	Pain and sufferings	Rs. 50,000/-
6.	Nutritious food	Rs. 20,000/-
7.	Transportation	Rs. 20,000/-
8.	Attendant charges	Rs. 14,500/-
9.	Loss of convenience	Rs. 50,000/-
10.	Future Medical expenses	Rs. 50,000/-
	Total	Rs.13,20,035/-

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

6.The learned counsel for the appellant submitted that the Tribunal had erred in fixing the entire liability on the part of the driver of the respondent corporation alone. There is a collusion between the vehicles. Therefore, the driver of the lorry would also be responsible for the accident. It is his further contention that the Tribunal had also erred in adopting 14 multiplier and awarding 9% interest for the compensation.



C.M.A. (MD)No.797 of 2022

7.Heard the learned counsel appearing on either side and perused the materials placed on record.

8.The evidence of the eye witness clearly indicates that the driver of the lorry died on the spot. P.W.1 and P.W.2, who were travelled in the bus had clearly deposed the manner in which the bus was driven by its driver. FIR was also registered against the bus. Further, to substantiate the stand of the transport corporation that the lorry was driven in a rash and negligent manner, none of the witnesses had been examined. Considering all these aspects, this Court is of the view that the negligence fixed on the part of the driver of the bus cannot be found fault.

9.The Tribunal considering all the documents, particularly considering 79% disability sustained by the injured and the medical expenses spent by the injured, awarded the compensation as stated above. The Tribunal had fixed the monthly income of the injured at Rs.5,000/- and adopted multiplier '14' instead of '13'. In fact the accident was occurred in the year 2015. Hence, this Court is of the view that the notional income fixed by the Tribunal is just and reasonable and the multiplier fixed by the Tribunal at 14 will not make much differences.



C.M.A. (MD)No.797 of 2022

WEB COPY

10. In view of the above, this Court does not find any infirmity in the compensation awarded by the Tribunal. Accordingly, this Civil Miscellaneous Appeal is dismissed and the compensation awarded by the Tribunal is confirmed. However, the percentage of interest fixed by the Tribunal at 9% is modified to 7.5%.

11. The Transport Corporation is directed to deposit the compensation amount as awarded by the Tribunal with interest at the rate of 7.5% from the date of petition till the date of realization to the credit of M.C.O.P.No.316 of 2015, on the file of the Motor Accident Claims Tribunal /Special Sub Court, Tirunelveli, within a period of one month from the date of receipt of a copy of this judgment, less the amount, if any already deposited. On such deposit, the claimant is permitted to withdraw the said amount, less the amount if any already withdrawn, by making necessary application before the Tribunal. No costs.

27.04.2023

NCC : Yes / No
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C.M.A. (MD)No.797 of 2022

N.SATHISH KUMAR, J.

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To

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

C.M.A.(MD)No.797 of 2022

27.04.2023