



C.M.A. (MD)No.235 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.235 of 2023

and

C.M.P.(MD) No.2774 of 2023

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

...Appellant/2nd Respondent

Vs.

1.Santhi
2.Prathabkumar
3.Prejisha
4.David Raj

...Respondents/Respondents

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award and decree made in M.C.O.P.No. 95 of 2014 dated 12.07.2022 on the file of the Motor Accident Claims Tribunal/Sub Court, Sivakasi.

For Appellants : Mr. P.Prabhakaran



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JUDGMENT

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This Civil Miscellaneous Appeal has been filed seeking to set aside the award and decree made in M.C.O.P.No.95 of 2014 dated 12.07.2022 on the file of the Motor Accident Claims Tribunal/Sub Court, Sivakasi.

2.The brief facts, leading to the filing of this Civil Miscellaneous Appeal, are as follows:-

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

(ii)The deceased is a retired Army man aged about 64 years and he was working as a Watchman and earning a considerable salary. On 17.08.2014 at about 08.00 p.m., while the deceased was walking on the road, a bus belonging to the appellant Corporation driven by its Driver in a rash and negligent manner dashed against the Petitioner, as a result of which, he succumbed to injuries. Thereby, the claim petition has been filed by the legal heirs of the deceased.

3.Before the Tribunal on the side of the claimants P.W.1 to P.W.3 were examined and Ex.P1 to P13 were marked and no oral and documentary evidence have been adduced on the side of the respondents.



4.The stand of the respondents before the Tribunal is that the bus was driven in a cautious manner. The deceased only suddenly crossed the road without noticing the bus driven by the second respondent. Despite the Driver applied break, the bus could not be halted and slightly touched the deceased. Therefore, the accident did not occur due to the negligence on the part of the driver it is on the part of the deceased, who suddenly crossed the road.

5. Considering the factual aspects and the evidence adduced, the Tribunal has fixed the following compensation with interest at the rate of 7.5% per annum:

S.No.	Heads	Amount
1.	Loss of income	Rs. 7,12,800/-
2.	Loss of consortium	Rs. 44,000/-
3.	Loss of Estate	Rs. 16,500/-
4.	Loss of love and affection for second and third claimants	Rs. 80,000/-
5.	Funeral expenses	Rs. 16,500/-
6.	Travel expenses	Rs. 5,000/-
	Total	Rs.8,74,800/-

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



6. The contention of the learned counsel for the appellant is that the Tribunal has fixed the notional monthly income of the deceased at Rs.9,000/- without any documents and the compensation awarded by the Tribunal is also exorbitant.

7. I have heard the learned counsel appearing on either side and perused the entire materials placed on record.

8. Perusal of the evidence of P.W.1 to P.W.3 clearly indicate that the deceased was a retired Army man and also working as a Watchman. Though there was no evidence with regard to the salary, the Tribunal considering the nature of the employment of the deceased at the relevant point of time has fixed the monthly income as Rs.9,000/-. This Court is of the view that as per Minimum Wages Act, the minimum wage of Rs.300/- per day will be normally paid to the workers. In that view of the matter, the income fixed by the Tribunal is well reasonable and the same does not require any interference.

9. The Tribunal has also considered the judgment of the Hon'ble Supreme Court in *Sarala Varma and Others vs. Delhi Transport Corporation and another* reported in *2009 6 SCC page [2]* and *National Insurance Company Ltd., vs.*



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Pranay Sethi and Ors reported in *CDJ 2017 SC page 1220* while awarding compensation and the same cannot be found faulted.

10.For the reasons stated above, I find no merits in this appeal. Accordingly, this Civil Miscellaneous Appeal is dismissed.

11.The appellant is directed to deposit the entire compensation amount as directed by the Tribunal with accrued interest and costs to the credit of M.C.O.P.No.95 of 2014, on the file of the Motor Accident Claims Tribunal / Sub Court, Sivakasi 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 claimants are permitted to withdraw the said amount as apportioned by the Tribunal, less the amount, if any, already withdrawn, by making necessary application before the Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

06.03.2023

Index : Yes/No

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N.SATHISH KUMAR, J.

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To

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

Judgment made in
C.M.A.(MD)No.235 of 2023

06.03.2023