



C.M.A. (MD)No.238 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.A.(MD)No.238 of 2023

and

C.M.P.(MD) No.2796 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Bye-Pass Road, Chettinayakanpatti Post,
Dindigul.

...Appellant/ Respondent

Vs.

1.Nageswari
2.R.Ramkumar

Gowsalya (died)

...Respondents/Petitioners

PRAYER: This Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the judgment and decree passed in M.C.O.P.No.53 of 2008 dated 28.10.2010 on the file of the Motor Accident Claims Tribunal cum Principal District Court, Dindigul.

For Appellant : Mr. M.Prakash

JUDGMENT

This Civil Miscellaneous Appeal has been filed to set aside the award and decree made in M.C.O.P.No.53 of 2008 dated 28.10.2010 on the file of the Motor Accident Claims Tribunal cum Principal District Court, Dindigul.



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

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

When the deceased, who is the husband of the first petitioner and the father of the second petitioner, was travelling in a motor cycle as a pillion rider, the bus bearing Registration No.TN57 1370 driven in a rash and negligent manner dashed against the motor cycle, as a result, the deceased succumbed to injuries. Therefore, claiming a sum of Rs.5 Lakhs as compensation, the claimants have filed the petition on the ground that at the time of death, the deceased was earning a sum of Rs.9,000/- per month from real estate business.

4.The appellant / respondent took a stand before the Tribunal that the accident was not occurred due to the rash and negligent driving of the bus belonging to the appellant transport corporation and the accident was happened only by some other vehicle and also disputed the income of the petitioner.



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5.To substantiate the case before the tribunal on the side of the claimants, the 2nd claimant has examined himself as P.W.1 and one Panner Selvam was examined as P.W.2 and Exs.P.1 to P.5 were marked and on the side of the Transport Corporation, one Mahalingam was examined as R.W.1, however, no material evidence has been marked.

6.On appreciation of the evidence available on record, the Tribunal has found that the bus driver had driven the vehicle in a rash and negligent manner and also held that though it was claimed that the deceased was earning a sum of Rs.9,000/- from the real estate business and also by selling cool drinks, the claimants have not established the same by producing any material evidence. Hence, the Tribunal has fixed the income of the deceased at Rs.36,000/- (Rupees Thirty Six Thousand Only) per year and awarded a sum of Rs.2,29,000/- (Rupees Two Lakhs and Twenty Nine Thousand Only) as compensation.

7.Challenging the same, the present appeal has been filed by the Transport Corporation.



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8.Heard the learned counsel on either side and perused the materials available on record carefully.

9.A perusal of the grounds of appeal indicates that it is only a formal appeal without any legal grounds and on perusal of the entire award passed by the Tribunal, this Court is of the view that the compensation awarded by the tribunal is very meagre. However, no appeal has been filed by the claimants for enhancement of compensation. In such view of the matter, I do not find any merits in this appeal and accordingly, this Civil Miscellaneous Appeal is dismissed. At this juncture, it is submitted that the entire award amount has already been deposited before the Tribunal. Therefore, the claimants are permitted to withdraw the award 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.

07.03.2023

NCC : Yes / No
Index : Yes/No
Internet : Yes/No
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- 1.The Motor Accident Claims Tribunal,
Principal District Judge, Dindigul.
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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N.SATHISH KUMAR, J.

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