



Civil Miscellaneous Appeal No.1389 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1389 of 2024
and CMP No.12321 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation,
Kumbakonam Limited,
Kumbakonam

... Appellant

Vs.

- 1.Kasthuri
2. Gayathri
3. Thillaigovindan
4. Praveen Kumar
5. Minor Sasikala
6. Minor Kaviyapriya

(Minor 5 to 6 are represented by their
Mother, 1st respondent as guardian)

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor



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Vehicles Act, 1988, to set-aside the decree and judgment dated 05.07.2022 passed in M.C.O.P.No.569 of 2018 on the file of Motor Accident Claims Tribunal Judge, I Additional District & Sessions Judge (FAC) Cuddalore.

For Appellant : Mr.C.Senapathi

For Respondents : Mr.M.Sudharsan

for M/s.N.Damodaran

JUDGMENT

The appellant Transport Corporation, aggrieved by the award passed by the Motor Accident Claims Tribunal Judge, I Additional District & Sessions Judge (FAC) Cuddalore in M.C.O.P.No.569 of 2018 dated 05.07.2022, has filed this appeal.

2. The claimants are the wife, children and sons of the deceased Arumugam. They filed a claim petition on the ground that the deceased Arumugam on 15.10.2017, was walking along Sirkali to Chidambaram main road and at about 21.45 hours near Salakarai Mariyamman Koil, the bus belonging to the Transport Corporation was driven in a rash and



negligent manner and it hit the deceased from behind and as a result, the deceased was thrown away and he sustained grievous injuries and unfortunately, he succumbed to the injuries. It is under these circumstances, the claim petition came to be filed before the Tribunal.

3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a conclusion that the accident had taken place only due to the rash and negligent driving on the part of the driver of the bus belonging to the transport Corporation. Having rendered such a finding, the Tribunal proceeded to determine the compensation payable at Rs.16,03,800/- in the following manner:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of Income =Rs.12,000/- (with 10% future prospects) = Rs.13,200 – Rs.3,300 (deduct 1/4 th personal expenses)	Rs.13,06,800/-
2.	Loss of Spousal Consortium (1 st petitioner)	Rs. 44,000/-
3.	Loss of parental consortium (Petitioners 2 to 6 – 44000x 5)	Rs.2,20,000/-



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<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
4.	Funeral expenses and loss of estate	Rs. 33,000/-
	Total	Rs.16,03,800/-

The Tribunal directed the above compensation to be paid with interest at the rate of 7.5% p.a.

4. The appellant transport Corporation aggrieved by the quantum of compensation awarded by the Tribunal, has filed the present appeal.

5. Heard Mr.C.Senapathi, learned counsel for appellant Transport Corporation and Mr.M.Sudharsan, learned counsel for M/s.N.Damodaran learned counsel for the respondents/claimants.

6. This Court carefully considered the submissions made on either side and the materials available on record.

7. This Court also carefully went through the award passed by the Tribunal.



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8. The main ground that was urged by the learned counsel for appellant was with regard to the notional monthly income that was fixed by the Tribunal. The accident had taken place in the year 2017 and the deceased was said to be a mason and the claimants came up with a case that the deceased was earning sufficient monthly income and was sustaining the family. Even though, there was no proof regarding the avocation of the deceased and the monthly income earned by him, the Tribunal after considering one of the judgment of this Court fixed the notional monthly income at Rs.12,000/- per month for an accident which took place in the year 2015 in that case. It was urged that the notional monthly income that was fixed by the Tribunal is on the higher side.

9. The fixation of notional monthly income is done by considering various factors and in variably it involves approximation. The Tribunal has taken into consideration one of the judgment of this Court while fixing the notional monthly income at Rs.12,000/- per month. Such procedure resorted to by the Tribunal cannot be faulted. In any case, there are nearly six claimants in this case who are Dependants on the



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deceased. The total compensation that was granted by the Tribunal was only Rs.16,03,800/-. This compensation seems to be very reasonable and it does not require the interference of this Court.

10. In the result, the Civil Miscellaneous Appeal is dismissed. The appellant Transport Corporation is directed to deposit the entire compensation amount, less the amount already deposited, together with interest at 7.5% p.a. from the date of claim petition till the date of deposit within a period of four weeks from the date of receipt of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

24.06.2024

Speaking Judgment/Non-speaking Judgment

Index : Yes/No

Neutral citation: Yes/No

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To

Motor Accident Claims Tribunal Judge, I Additional District & Sessions Judge (FAC) Cuddalore.



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N.ANAND VENKATESH, J.

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