



WEB COPY



C.M.A.No.2147 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2024

CORAM

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

C.M.A.No.2147 of 2022 and
C.M.P.No.16662 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation (VPM) Limited,
Villupuram Division, Rangapuram,
Vellore-9. ... Appellant

vs.

1. A.S.Suban
2. A.S.Salemm ... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 against the judgment and decree dated 28.09.2021 made in M.C.O.P.No.699 of 2018 on the file of the Motor Accident Claims Tribunal (I Additional District and Sessions Court) at Vellore.

For Appellant	: Mr.T.Chandrasekaran
For Respondents	: Mr.M.Sivakumar (R1 and R2)



WEB COPY



C.M.A.No.2147 of 2022

J U D G M E N T

This Appeal has been filed by the Transport Corporation challenging the Award dated 28.09.2021 passed by the Motor Accident Claims Tribunal (I Additional District and Sessions Court) at Vellore in M.C.O.P.No.699 of 2018, directing the Appellant/Transport Corporation to pay the Claimants a sum of Rs.12,24,000/- as compensation in respect of the death of one Amuma @ Dilshad in an accident which occurred on 14.04.2018 involving the bus owned by the appellant/Transport Corporation.

2. Before the Tribunal, the Respondents/Claimants claimed a sum of Rs.20,00,000/- as compensation. In support of their claim, the Claimants marked Exs.P1 to P6 before the Tribunal and P.W.'s 1 and 2 were examined as witness. On the side of the Appellant/Transport Corporation, one witness was examined, but no Exhibit was marked.

3. On consideration of the oral and documentary evidence available on record, the Tribunal has awarded a sum of Rs.12,24,000/- as compensation



C.M.A.No.2147 of 2022

to the Claimants.

WEB COPY

4. Heard the learned counsel for the parties and perused the material documents available on record.

5. The Appellant has challenged the impugned award on the ground that the Tribunal has fixed the monthly income of the deceased @ Rs.10,000/-, without any documentary evidence and the compensation awarded by the Tribunal is on the higher side, hence seeks reduction of the compensation and that apart the Tribunal failed to take note of the fact that the accident occurred due to the negligence of the deceased, who attempted to get down from the moving bus in a hurried manner before the bus reached the bus stop. That apart, the Tribunal failed to analyze the evidence of R.W.1 who categorically deposed that the accident occurred due to negligence of the deceased.

6. The learned counsel for the Appellants/Claimants submitted that the Tribunal by considering the evidence of P.W.1 and P.W.2 has rightly come to the conclusion that the accident occurred due to sudden application



C.M.A.No.2147 of 2022

of brake by the driver of the bus and as far as fixation of monthly income of the deceased is concerned, the Tribunal by considering the age of the deceased and the year of accident has rightly fixed the monthly income of the deceased at Rs.10,000/- and by considering the oral and documentary evidence has awarded reasonable compensation and therefore the same does not warrant any interference.

7. As far as liability is concerned, the Tribunal on considering the evidence of P.W.2- Babu, who is an eye witness to the accident has rightly come to the conclusion that the accident occurred due to the negligence on the part of the driver of the Transport Corporation. For the foregoing reasons, this Court does not find any merit in this Appeal on the aspect of challenging the negligence.

8. A perusal of the award would go to show that since no proof was filed on the side of the Claimants with respect to the income of the deceased, the Tribunal by considering the age of the deceased and the date of accident has rightly fixed the monthly income of the deceased at Rs.10,000/-. The Tribunal by taking note of oral and documentary evidence



C.M.A.No.2147 of 2022

has fixed 10% contributory negligence on the part of the deceased and rightly awarded compensation and therefore the same cannot be said to be excessive and therefore this Appeal is liable to dismissed.

9. Accordingly, the Civil Miscellaneous Appeal stands dismissed. The Appellant/Transport Corporation is directed to deposit the entire amount awarded by the Tribunal together with interest at 7.5% per annum from the date of the Claim Petition till the date of realization, less the amount, if any, already deposited to the credit of M.C.O.P. No.699 of 2018 on the file of the Motor Accidents Claims Tribunal (I Additional and Sessions Court), Vellore, within a period of six weeks from the date of receipt of a copy of this judgment. On such deposit being made, the Tribunal is directed to transfer the Award amount directly to the Bank account of the Respondents/Claimants through RTGS, within a period of three weeks thereafter. No costs. Consequently, connected miscellaneous petitions is closed.

12.01.2024

Index : Yes / No

Page No.5 of 7



C.M.A.No.2147 of 2022

Speaking Order : Yes / No
arr

To:

1. The Motor accident Claims Tribunal,
(I Additional District and Sessions Court),
Vellore.
2. The Section Officer,
V.R. Section,
High Court of Madras,
Chennai 600 104.



WEB COPY



C.M.A.No.2147 of 2022

KRISHNAN RAMASAMY,J.

arr

C.M.A. No.2147 of 2022

12.01.2024