



WEB COPY



CM.A.No.860 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2024

CORAM

**THE HONOURABLE MR.JUSTICE M.SUNDAR
AND**

THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

C.M.A.No.860 of 2024

The Managing Director,
Metropolitan Transport Corporation Limited,
Pallavan Salai, Pallavan House,
Anna Salai, Chennai 600 002

...Appellant/Respondent

Vs.

1.Selvi

Selvam (Deceased)

2.Ramya (Minor)

3.Vijay (Minor)

...Respondents

(2nd and 3rd respondents are minor
represented by their mother 1st
petitioner Selvi



CM.A.No.860 of 2024

Door No.317, Thiruvallu Street, MGR
Colony,
Anna Nagar, Chennai-600 040)

Civil Miscellaneous Appeal filed under Section 173 of Motor Vehicles Act, 1988, against the judgement and decree dated 31.10.2022 made in M.C.O.P.No.3419 of 2014 on the file of the Motor Accidents Claims Tribunal, VI Small Causes Court at Chennai.

For Appellant : Mr.Anton Dhanasekaran

JUDGMENT

(Judgment of the Court was made by K.GOVINDARAJAN THILAKAVADI, J.,)

This Civil Miscellaneous Appeal is preferred by the appellant/Transport Corporation, challenging the judgment and decree dated 31.10.2022 made in M.C.O.P.No.3419 of 2014 on the file of the Motor Accidents Claims Tribunal, VI Small Causes Court at Chennai

For the sake of convenience, the parties are referred as described before the Tribunal.



CM.A.No.860 of 2024

WEB COPY

2.Shortly stated, On 06.08.2010 at about 8.30 hours the deceased Selvakumar was travelling from Anna nagar to KMC Hospital by Chennai Metropolitan Transport Corporation bus route No.M59 bearing Registration No. TN 01 N 8020 on EVR Salai, proceeding from West to East direction and when the bus stopped at NSK nagar bus stop, the driver of the bus without noticing whether all the passengers got into the bus, negligently moved the bus, due to which the deceased fell down from the bus. The rear tyre of the bus ran over the deceased causing the death of the deceased. As the driver of the bus is an employee of the respondent/Metropolitan Transport Corporation (herein after MTC), the MTC is liable to pay compensation to the claimants. FIR has been registered before Anna Nagar Police Station in Crime No.408/AS2/10 under Section 279 and 304 A IPC. At the time of accident, the deceased was 15 years old and was working as Mason-Chithal receiving a sum of Rs.250/- per day as salary. Accordingly, claim for compensation has been made by the legal heirs.

3.The respondent alleged that no such accident occurred with MTC



CM.A.No.860 of 2024

bus on the said day as alleged by the claimants. The further contention of the respondent in the counter affidavit is that as per the trip sheet of the said MTC bus, the bus started its trip at 8.30 hours at Thiruverkadu. But as per the FIR the alleged accident has occurred at NSK nagar, bus stop at about 8.30 hours. Therefore, it is evident that a false complaint has been lodged against the respondent/Corporation. It is further submitted that the quantum of compensation claimed by the claimants is highly excessive without any basis and prayed for dismissal of the above petition. Accordingly, the claims Tribunal framed four issues. It came to conclusion that the accident took place as alleged and claimants are entitled to claim compensation. Compensation of Rs.16,97,600/- has been awarded carrying interest at the rate of 7.5% per annum.

4. Aggrieved by this, the Transport Corporation is on appeal.

5. Mr. Anton Dhanasekaran, learned counsel for the appellant/Transport Corporation would submit that, the deceased Selvakumar was a minor at the time of the alleged accident. While so, the Tribunal erroneously fixed the monthly income of the deceased at Rs.7000/- without



CM.A.No.860 of 2024

any proof, which is unjustified. Therefore, the findings recorded by the learned Claims Tribunal is unsustainable and the impugned order is liable to be set aside.

6. We now embark upon discussion and give our dispositive reasoning. The 1st petitioner has deposed in her evidence that her son Selvakumar was a Mason-Chithal and was earning Rs.250/- per day. This evidence of P.W.1 has not been rebutted. The learned Tribunal, accordingly fixed the notional income of the deceased as Rs.7000/- per month and deducted $\frac{1}{4}$ of the income as personal expenses of the deceased. The evidence given by P.W.1 has not been challenged or rebutted. The learned Tribunal has rightly fixed the income of the deceased as Rs.7000/- per month. The Tribunal has rightly applied the multiplier of '18', as the deceased at the time of the accident was 15 years old and awarded a sum of Rs.15,87,600/- under the head 'loss of dependency'. Further, the Tribunal has awarded compensation under the heads of loss of estate, loss of consortium and funeral expenses. Accordingly, a total sum of Rs.16,97,600/- was awarded as compensation to the claimants. Therefore, no infirmity is found in the above impugned order. For the reasons mentioned above, there is no merit in this



CM.A.No.860 of 2024

appeal which is accordingly, dismissed. No costs.

7.In the result, the Appeal is dismissed at the stage of admission.

[M.S.,J]

[K.G.T.,J]

10.04.2024

vsn

Internet:Yes/No

Index:Yes/No

Speaking/Non-speaking order

To

1. The Motor Accident Claims Tribunal,
Vith Small Causes Court at Chennai..
2. The Section Officer,
VR Section, High Court, Madras.



WEB COPY



CM.A.No.860 of 2024

M.SUNDAR,J.

and

K.GOVINDARAJAN THILAKAVADI, J.

vsn

C.M.A.No.860 of 2024



WEB COPY



CM.A.No.860 of 2024

10.04.2024