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C.M.A.No.2424 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2024

CORAM

THE HONOURABLE MRS. JUSTICE J.NISHA BANU
and
THE HONOURABLE MRS. JUSTICE R.KALAIMATHI

C.M.A.No.2424 of 2024 and
C.M.P.No.19221 of 2024

The Managing Director,
Metropolitan Transport Corporation Limited,
Pallavan House, Anna Salai,
Chennai - 2.

... Appellant

Vs.

P. Iliyas (Died)

1. Razia Begum

2. Mohammed Niyas (Minor)

3. Mohammed Jaffer Ali (Minor)

(Above minors are represented by natural guardian/
mother, first respondent)

... Respondents

Prayer: The Civil Miscellaneous Appeal is filed under Section 173 of Motor Vehicles Act, 1988, to set aside the judgment dated 24.02.2023 made in M.C.O.P.No.5966 of 2014 on the file of the Motor Accident Claims Tribunal, III Court of Small Causes, Chennai.



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C.M.A.No.2424 of 2024

For Appellant : Mr.M.Murali Vinodh

For Respondent : Mr.T.V.Balachandran
Nos.1 to 3

JUDGMENT

*(Judgment of the Court was delivered by **J. Nisha Banu, J**)*

This Civil Miscellaneous Appeal has been filed by the Metropolitan Transport Corporation Limited challenging the quantum of compensation awarded by the Motor Accidents Claims Tribunal.

2. According to the claimants, on 13.06.2014 at about 21.15 hours, the deceased/P.Iliyas was getting ready to alight in the nearing bus stop when the bus was proceeding at the junction of Cooks Road and Otteri bridge junction, at that time, due to rash and negligent driving of the driver of the bus and sudden break applied by him to avoid collision with the vehicles proceeding in front of it, Iliyas (deceased) was thrown out of the entrance gate and sustained crush injury to the left hand and multiple injuries which ultimately caused death on 21.07.2019. Stating that the respondent is liable to pay compensation vicariously for the wrongful act of the driver of the bus, the legal heirs of the deceased/Iliyas have filed the claim petition before the Tribunal seeking compensation of Rs.25,00,000/-.



C.M.A.No.2424 of 2024

WEB COPY

3. As against the said claim, the Tribunal has awarded a sum of Rs.19,98,000/- as total compensation along with costs and interest at the rate of 7.5% per annum from the date of filing of the claim petition till the realization. Challenging the same, the Metropolitan Transport Corporation Limited has filed the present Civil Miscellaneous Appeal.

4. The learned counsel for the appellant/Insurance Company has submitted that the Tribunal has erred in holding that the driver of the bus is the cause for the accident. He also submitted that the liability fixed against them is improper and the compensation awarded by the Tribunal is excessive and exorbitant.

5. Per contra the learned counsel for the respondents/Claimants would contend that due to the sudden demise of the sole bread winner of the family, the family members are in a deprived condition. He further contended that the amount awarded by the Tribunal is very meager, which needs significant enhancement.



C.M.A.No.2424 of 2024

6. Heard the learned counsel on either side and perused the materials

available on record carefully and meticulously.

7. Before the Tribunal, the deceased/Iliyas examined himself as P.W.1, who deposed that the negligent driving of the driver of the bus is the cause for the accident. The copies of the discharge summary issued by The Rajiv Gandhi Government General Hospital were marked as Exs.P1 and P2. The photos of the deceased was marked as Ex.P4. The X-ray was marked as Ex.P6 and Disability Certificate was marked as Ex.P7. On perusal of Ex.P1, Ex.P2, Ex.P4, Ex.P6 and Ex.P7, it is seen that the said Iliyas died only due to the road accident. As far as the contention of the learned counsel for the appellant that merely F.I.R. has been registered as against the driver of the bus, negligence cannot be fixed on the driver of the bus is concerned, from the F.I.R. and R.W.1's evidence, it is clear that the deceased in the appellant bus was standing inside the bus near the footstep to get down in his stop, but, due to rash driving of the driver, at the bend of the road, he could not control the bus and the deceased was thrown out of the bus and sustained injuries. Thus, the Tribunal fixed the negligence on the part of the driver of the bus, which in our opinion, is proper.



C.M.A.No.2424 of 2024

8. Insofar as the contention of the learned counsel for the appellant that

the Tribunal ought not to have fixed the monthly income of the deceased as Rs.11,000/- is concerned, the deceased is an electrician and self employed and was earning a sum of Rs.750/- per day. The Tribunal, considering the prevailed working atmosphere of the deceased, fixed a sum of Rs.11,000/- as notional monthly income of the deceased, which in our opinion is fair and proper. Adding 40% towards future prospects, i.e. Rs.4,400/- ($\text{Rs.11,000} \times 40/100 = \text{Rs.4,400}$), the monthly income comes to Rs.15,400/- ($\text{Rs.11,000/-} + \text{Rs.4,400/-}$). Thus, the annual income of the deceased was fixed as Rs.1,84,800/-. After deducting $1/3^{\text{rd}}$ towards personal expenses ($\text{Rs.1,84,800} - \text{Rs.61,600}$), a sum of Rs.1,23,200/- was considered to be the contribution to the dependent family per annum. As the age of the deceased is 36 years, as per ***Sarla verma & Ors vs. Delhi Transport Corporation & Anr. (2009) 4 MLJ (SC) 997***, applying multiplier 15, a total sum of Rs.18,48,000/- ($\text{Rs.1,23,200/-} \times 15$) was arrived towards loss of dependency and this Court is not inclined to interfere with the same. Further, the amount awarded under other heads viz., a sum of Rs.1,20,000/- towards Loss of Consortium, a sum of Rs.15,000/- towards Loss of Estate and a sum of Rs.15,000/- towards Funeral Expenses are just and reasonable.



C.M.A.No.2424 of 2024

9. We do not find any infirmity or illegality in the said findings of the Tribunal, warranting interference by this Court. Therefore, we are of the opinion that the award passed by the Tribunal has to be confirmed.

10. In the result, this Civil Miscellaneous Appeal is dismissed. The award passed by the Tribunal in M.C.O.P.No.5966 of 2014 dated 24.02.2023 is confirmed. Since the appellant/Metropolitan Transport Corporation Limited has already deposited the entire compensation amount, the first respondent/wife of the deceased is permitted to withdraw her share of the award amount as per the ratio of apportionment made by the Tribunal along with proportionate interest. The shares of the minors/respondents 2 and 3 are ordered to be deposited in any one of the Nationalised Bank till they attain majority. The mother of the minors/1st respondent is permitted to withdraw the accrued interest once in three months for the welfare of the minors. No costs. Consequently, connected Miscellaneous Petition is closed.

(J.N.B., J.) (R.K.M., J.)
28.10.2024

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C.M.A.No.2424 of 2024

To

The Motor Accident Claims Tribunal,
III Court of Small Causes, Chennai.



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and
R.KALAIMATHI, J.

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