



C.M.A.Nos.2415 and 2416 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**C.M.A.Nos.2415 and 2416 of 2021
And
C.M.P.Nos.13761 and 13762 of 2021**

- 1.The General Superintendent,
Agricultural Impliments Workshop (Packages),
Thiruvarur.
- 2.The District Collector,
Thiruvarur,
Represented the State of Tamil Nadu.
... Appellant in both the C.M.As.

Vs.

- 1.Karthikeyan
- 2.Minor.Sri Dharshan
- 3.Minor.Jaivarshan

(Minors 2 and 3 are represented
by their father and guardian Karthikeyan)
... Respondents in C.M.A.2415/2021

Arivazhagan ... Respondent in C.M.A.2416/2021

Common Prayer:

Civil Miscellaneous Appeals filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the orders in M.C.O.P.Nos.155 and 156



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of 2015 respectively, dated 10.03.2017 on the file of Motor Accidents Claims Tribunal cum Chief Judicial Magistrate, Thiruvarur.

For Appellants : Mr.P.Gurunathan
Additional Government Pleader
For Respondents : Mr.J.Nagarajan

COMMON JUDGMENT

The respondents before the Motor Accident Claims Tribunal are the appellants herein. These civil miscellaneous appeals have been filed against the judgment and decree dated 10.03.2017 in M.C.O.P. Nos.155 and 156 of 2015 respectively, on the file of the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate, Thiruvarur.

2.Since the issue involved in these civil miscellaneous appeals are interrelated, they are heard together and disposed of by way of a common judgment.

3.The brief facts of the case is that on 28.04.2015 at about 5.00p.m., the deceased Kanimozhi was travelling in the Scooty bearing Registration No.TN-50-L-1072 along with her child, from Madapuram to Thiruthuraipoondi near Kallarai and the said vehicle was driven by



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her father Arivazhagan. At that time, the first appellant's driver drove the Tractor bearing Registration No.MSL-2487, which came behind the Scooty in a rash and negligent manner and dashed against the Scooty, due to which, the said Kanimozhi was thrown out from the Scooty and fell down on the road side and the Tractor ran over the said Kanimozhi and she died on the spot itself. The said Arivazhagan and his grandson sustained injuries.

4. Thereafter, the dependants of the deceased Kanimozhi and the injured/ respective respondents filed claim petitions before the Motor Accident Claims Tribunal, claiming compensation of Rs.50 Lakhs and Rs.3 Lakhs respectively.

5. After adjudication, the Motor Accident Claims Tribunal, awarded a sum of Rs.17,10,000/- and Rs.98,772/- respectively, along with interest at the rate of 7.5% p.a. from the date of petition i.e., 01.06.2015 till the date of deposit and costs as compensation to the claimants and directed the appellants to jointly or severally deposit the compensation amount.



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6.Before the Tribunal, the first claimant in M.C.O.P.No.155 of 2015 examined himself as P.W.1 and the claimant in M.C.O.P.No.156 of 2015 examined himself as P.W.2 and marked Ex.P1 to Ex.P.17. The appellants examined R.W.1, R.W.2 and R.W.3/ Motor Vehicles Inspector and marked Ex.R1.

7.The learned counsel appearing for the appellants submitted that as per the evidence of P.W.2 who is the rider of the motorcycle, the deceased fell down on the right side and he fell down on the left side, whereas, in the F.I.R., it is specifically stated that the deceased fell down on the left side and P.W.2 along with his grandson fell down on the right side. The Tribunal ought to have considered the discrepancy between the deposition of P.W.2 and F.I.R. and ought to have fixed the entire negligence on the rider of the motorcycle, however, fastened the entire negligence on the driver of the first appellant, which is not sustainable one.

8.The learned counsel appearing for the appellants further submitted that though Ex.P4 – salary certificate of the deceased was marked before the Tribunal, the employer of the deceased was not



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examined to prove the same and hence, Ex.P4 is not admissible one.

Though the deceased is an MBA Graduate, it is the duty caste upon the claimants to establish her employment, however, the Tribunal, without any evidence awarded compensation to the dependants of the deceased, which is highly excessive.

9.The learned counsel appearing for the respective respondents submitted that after elaborately discussing the factual aspects, the Tribunal fixed the entire negligence on the driver of the first appellant and further submitted that the Tribunal after considering all the factual aspects, awarded the compensation which is just and reasonable and hence, the impugned judgment warrants no interference.

10.Heard the learned counsel appearing for the appellants as well as the learned counsel appearing for the respondents and perused the materials available on record.

11.The accident is not disputed. Though there is minor contradiction between the F.I.R. and the deposition of P.W.2 with regard to the side on which the deceased and the injured fell down, it



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is admitted fact that the Tractor driven by the first appellant's driver ran over the deceased and P.W.2 is the eye witness who narrated the entire incident. The minor contradiction between the F.I.R. and the deposition of P.W.2 will not vitiate the claimants case, unless the appellants examine any independent eye witness before the Tribunal. Without examining any independent eye witness, the appellants questioning the negligence aspect is not sustainable one.

12.Insofar as the quantum of compensation awarded to the dependants of the deceased/ claimants is concerned, admittedly, the deceased possessed MBA Graduation, however, the Tribunal has not fixed the notional income of the deceased and has not awarded 40% future prospectus and has not deducted 1/3 towards personal expenses and if all these have been done, the amount awarded for loss of income would be more than Rs.20 Lakhs, however, the Tribunal has awarded only Rs.16,20,000/- and the amount awarded under the other heads are just and reasonable. Even then, the appellants questioning the compensation awarded to the dependants of the deceased is not sustainable one.



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13.Insofar as the quantum of compensation awarded to the injured claimant is concerned, the tribunal after elaborately discussing the factual aspects has awarded the compensation which is just and reasonable and the same warrants no interference.

14.The civil miscellaneous appeals are dismissed. The judgment and decree dated 10.03.2017 in M.C.O.P. Nos.155 and 156 of 2015 respectively, on the file of the Motor Accidents Claims Tribunal cum Chief Judicial Magistrate, Thiruvarur, is confirmed. No costs. Consequently, the connected miscellaneous petitions are closed.

06.12.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Motor Accidents Claims Tribunal cum
Chief Judicial Magistrate, Thiruvarur.



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