



Civil Miscellaneous Appeal No.1122 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Civil Miscellaneous Appeal No.1122 of 2024

and

C.M.P.No.10230 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
3/137, Salamedu,
Vazhuthareddy & Post,
Villupuram Taluk,
Tamil Nadu - 605 402.

... Appellant

Vs.

1.Vijaya
W/o.Annamalai

2.Annamalai

... Respondents

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 18.08.2022 made in M.C.O.P.No.90 of 2019 on the file of the Motor Accident Claims Tribunal, Special District Judge, Villupuram.

For Appellant : Ms.J.Tamilselvi

For Respondents : Mr.S.Kalyanaraman



WEB COPY



Civil Miscellaneous Appeal No.1122 of 2024

JUDGMENT

The transport corporation has filed the present appeal challenging the award passed by Motor Accident Claims Tribunal, Special District Judge, Villupuram, in M.C.O.P.No.90 of 2019, dated 18.08.2022.

2. The claimants are the parents of the deceased Ajay. The case of the claimants is that on 24.07.2018, their son was travelling in a two wheeler as a pillion rider and the vehicle was coming from Ulundurpet to Kanaiyar village and at about 16.30 hours, when the vehicle approached the Ulundurpet-Salem main road, the bus belonging to the appellant transport corporation was driven in a rash and negligent manner and it dashed on the two wheeler on the rear side, as a result of which the deceased was thrown out of the vehicle and he succumbed to the injuries. It is under these circumstances, the claim petition came to be filed by the parents of the deceased.

3. The Tribunal, on considering the facts and circumstances of the case and on appreciation of oral and documentary evidence, came to a categorical conclusion that the accident had taken place due to the rash



and negligent driving of the bus belonging to the appellant transport corporation. Having rendered such a finding, the Tribunal also found that the deceased died due to head injuries and he was not wearing helmet. Therefore, the Tribunal attributed 15% contributory negligence to the deceased and fixed the liability at 85%. The Tribunal, thereafter, fixed the compensation at Rs.17,73,200/- under various heads as follows:

<i>Sl. No.</i>	<i>Compensation awarded under the head</i>	<i>Amount (in Rs.)</i>
1.	Loss of dependency	16,63,200/-
2.	Loss of love and affection	80,000/-
3.	Loss of articles	15,000/-
4.	Funeral expenses	15,000/-
	Total	17,73,200/-

Out of Rs.17,73,200/-, a sum of Rs.15,07,220/- (85%) was directed to be paid by the appellant transport corporation with interest at the rate of 7.5% p.a.

4. The appellant transport corporation, aggrieved by the quantum of compensation fixed and the percentage of contributory negligence that was fixed, has filed this appeal.



WEB COPY

5. Heard Ms.J.Tamilselvi, learned counsel for appellant transport corporation and Mr.S.Kalyanaraman, learned counsel for respondents.

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.

8. The first ground that was urged was that the deceased was not wearing helmet and he had died due to head injuries even as per the postmortem report marked as Ex.P4 and therefore, a higher percentage of contributory negligence must be fixed. The Tribunal has given a finding that the driver of the bus had driven the vehicle in a rash and negligent and the bus had dashed on the rear side of the two wheeler. If not for the negligence of the bus driver, this accident would not have taken place. Therefore, considering the facts and circumstances of the case and the cause of death, the Tribunal has rightly fixed the contributory negligence at 15%, which does not require the interference of this Court.



WEB COPY

9. Insofar as the fixation of the monthly income is concerned, learned counsel for appellant transport corporation submitted that a very high income has been fixed since the deceased was hardly aged about 19 years. The Tribunal had fixed the notional monthly income at Rs.11,000/- and added 40% towards future prospects. Thus, the total monthly income was fixed at Rs.15,400/-. The accident had taken place in the year 2018 and considering the cost of living and the price index, the monthly income that was fixed by the Tribunal is reasonable and it does not require the interference of this Court. The Tribunal has rightly applied the multiplier and has deducted $\frac{1}{2}$ towards personal expenditure of the deceased and has calculated the compensation under the head 'loss of income'. The compensation that has been fixed under the other heads also is not excessive and it does not require the interference of this Court.

10. In the light of the above discussion, this Court does not find any ground to interfere with the award passed by the Tribunal and the same is hereby confirmed.



WEB COPY



Civil Miscellaneous Appeal No.1122 of 2024

N.ANAND VENKATESH, J.

gm

In the result, this Civil Miscellaneous Appeal is dismissed. The appellant transport corporation is directed to deposit the compensation awarded by the Tribunal, 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 six (6) weeks from the date of receipt of this judgment. The other directions issued by the Tribunal with regard to the mode of payment of compensation remains unaltered. No costs. Consequently, connected miscellaneous petition is closed.

06.06.2024

Speaking Judgment/Non-speaking Judgment

Index :Yes/No

Neutral citation: Yes/No

gm

To
The Motor Accident Claims Tribunal,
Special District Judge,
Villupuram.

Civil Miscellaneous Appeal No.1122 of 2024