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C.M.A.Nos.384 & 496 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2024

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.A.Nos.384 & 496 of 2024

and

C.M.P.Nos.4240 & 5010 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
No.37, Mettupalayam Road,
Coimbatore 641 043.

...Appellant in both appeals

Vs

1.Muthammal
2.Ayyarammal
3.Nagalakshmi
4.Nagajothi
5.Nagalingam

... Respondents in CMA.No.384 of 2024

1.Ayyarammal
2.Minor Thayammal
3.Minor Kaleeshwari
4.Minor Suganya
5.Minor Maheetha

1/8



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[**appellants 2 to 5 are rep by next friend/mother/1st appellant]

6.Alagar

7.Sri Ayyapan

... Respondents in CMA.No.496 of 2024

Common Prayer:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988, to set aside the award dated 07.02.2023 made in MCOP.Nos.24 & 22 of 2017 respectively on the file of the Motor Accident Claims Tribunal Judge/III Additional District and Sessions Judge, Dharapuram.

For Appellant : Mr.M.Murali Vinodh
in both the appeals

For Respondent : Mr.Ma.P.Thangavel,
for R1 to R3 in CMA.No.384 of 2024
for R1 to R6 in CMA.No.496 of 2024

COMMON JUDGMENT

These civil miscellaneous appeals have been filed challenging the quantum of compensation awarded by the Tribunal vide the award dated 07.02.2023 made in MCOP.Nos.24 & 22 of 2017.



2. The learned counsel for the appellant would submit that on 13.07.2016, when one Chinnamari was driving a Motor cycle bearing Registration No.TN-37-BV-1140 with one Ayyarappan as pillion rider from Kamudhi to Coimbatore, a TNSCTC Bus bearing Registration No.TN-38-N-3109 came in a rash and negligent manner and dashed against the said Motorcycle, due to which the aforesaid Chinnamari and Ayyarappan were died on the spot. Considering all the aspects, the Tribunal had awarded the compensation in the following manner:

MCOP.No.22 of 2017 (Chinnamari):

<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
1	Loss of Income	20,16,000
2	Funeral Expenses	16,500
3	Loss of Estate	16,500
4	Loss of Consortium	2,64,000
	Total	23,13,000

MCOP.No.24 of 2017 (Ayyarappan):

<i>S.No</i>	<i>Heads</i>	<i>Compensation (Rs.)</i>
1	Loss of Income	12,87,000
2	Funeral Expenses	16,500
3	Loss of Estate	16,500
4	Loss of Consortium	2,20,000
	Total	15,40,000



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3. Further, by referring the counter statement filed before the Tribunal, he would submit the accident was occurred due to rash and negligent driving of the rider of the two-wheeler. However, without considering the said counter statement, the Tribunal had fastened the entire liability against the driver of the bus.

4. He would also submit that though he had filed the appeal in challenging both the quantum of compensation and negligence, now he would contend that the challenge is restricted only with regard to the negligence and liability fastened by the Tribunal. Hence, he request this Court to set aside the liability fixed by the Tribunal and to re-fix the same.

5. In reply, the learned counsel for the respondent would submit that after taking into consideration of the oral and documentary evidences, the Tribunal had rightly came to the conclusion that the cause of the accident is only the rash and negligent driving of the bus driver. Hence, he would request this Court to confirm the award passed by the Tribunal on the aspect of negligence and



liability.

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6. Heard the learned counsel for the appellant and the respondent and also perused the materials available on record.

7. In the present case, the main grievance of the Transport Corporation is that the accident had occurred only due to the rash and negligent driving of the rider of the two-wheeler and hence, the driver of the bus is no way responsible to the said accident. However, in order to prove the said contention, no oral or documentary evidence has been produced by the Transport Corporation and even the driver of the bus was also not examined before the Tribunal. Thus, based on the FIR and the deposition of the eye-witnesses, the Tribunal had arrived at the conclusion that the accident was occurred only due to the rash and negligent driving of the bus driver.

8. Further, without any oral or documentary evidence, the contention of the Transport Corporation cannot be taken into consideration merely based on



the averments made in the counter statement, which was filed before the Tribunal. The said averments has be to proved by the Transport Corporation in the manner known to law. In such view of the matter, this Court does not find any merits in this matter and hence, this Court is inclined to confirm the award passed by the Tribunal.

9. In the result, these Civil Miscellaneous Appeals are dismissed and the Transport Corporation is directed to deposit the entire award amount along with interest and costs, less the amount already deposited, if any, within a period of four weeks from the date of receipt of a copy of this judgment, to the credit of MCOP.Nos.22 & 24 of 2017 on the file of the Motor Accident Claims Tribunal, III Additional District and Sessions Judge, Dharapuram. Upon such deposit, the share of the minors, viz, appellants 2 to 5 in CMA.No.496 of 2024, is directed to be deposited in any one of the Nationalised Bank till they attain majority and the 1st appellant in CMA.No.496 of 2024 being the mother of the minors is permitted to withdraw the accrued interest once in three months for the welfare of the minors. Further, the Tribunal is directed to transfer the share of other appellants to their respective bank accounts, by way of RTGS, within a period of



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three weeks from the deposit or from the date of receipt of the Bank details obtained for the claimant or application for withdrawal from the claimant, whichever is earlier. No costs. Consequently, the connected miscellaneous petitions are also closed.

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Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
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KRISHNAN RAMASAMY,J.

nsa

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