



C.M.A.(MD) No.1633 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.09.2024

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

C.M.A.(MD) No.1633 of 2013

and

M.P.(MD) No.1 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation,
Erode.

... Appellant

Vs.

1.Pitchaiammal
W/o.Late.Paramasamy

2.Palaniammal
W/o.Late.Paramasamy

3.Veeramani
S/o.Late.Paramasamy

4.Veerasekar
S/o.Late.Paramasamy

5.Ramasamy
S/o.Late.Paramasamy

6.Lakshmanasamy
S/o.Late.Paramasamy

7.Veeralakshimi
D/o.Paramasamy

... Respondents



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Prayer:- Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act, 1988 to set aside the judgment and decree passed by the Motor Accident Claims Tribunal, Addl. District & Sessions Court, Fast Track Court, Dindigul, in M.C.O.P.No.218 of 2003, dated 28.02.2006.

For Appellant : Mr.D.Sivaraman

For R2 & R4 : No appearance

For R3, R5 to R7 : Mr.B.Santhanam Rajeshkumar

J U D G M E N T

The instant appeal has been filed by the State Transport Corporation challenging the finding on negligence and the quantum of compensation awarded by the Motor Accident Claims Tribunal [Additional District & Sessions Court/Fast Track Court], Dindigul, *vide* its Judgment and Decree dated 28.02.2006 passed in M.C.O.P.No.218 of 2003.

2. The respondents filed a claim petition before the Tribunal stating that on 11.10.2002 at about 02.45 p.m., while the deceased was riding his two-wheeler, the bus belonging to the appellant, State Transport Corporation, came in a rash and negligent manner and dashed against the two-wheeler from behind and caused the death of the deceased.



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3. The appellant, filed a counter stating that the deceased who was riding a two wheeler and the rider of the another two wheeler were proceeding in front of the bus and were talking to each other and when the bus attempted to overtake the deceased, the deceased unexpectedly fell under the rear wheel of the bus and sustained fatal injuries, and therefore the appellant is not liable to pay compensation.

4. Before the Tribunal, the respondents/claimants examined P.W.1 and P.W.2 and marked Exs.P1 to P5. The appellant, State Transport Corporation, examined R.W.1 and not marked any documents.

5. The Tribunal, after taking into consideration the oral and documentary evidence, held that the accident took place only due to the rash and negligent driving of the bus driver and directed the appellant, State Transport Corporation, to pay the compensation of Rs.2,30,300/-.

6. The learned counsel for the appellant, State Transport Corporation, submitted that the evidence of the bus driver examined as R.W.1, establishes that the accident took place only due to the negligent



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riding of the deceased; that the Tribunal has ignored the evidence of R.W.

1; and that in any case, the compensation of Rs.2,30,300/- awarded by the Tribunal is excessive and prayed for reduction of the same.

7. The learned counsel for the third, fifth to seventh respondents/third, fifth to seventh claimants, per contra, submitted that the award of the Tribunal is just and reasonable and therefore, no interference is called for.

8. The points for consideration in the instant appeal are: (a) whether the finding of the Tribunal on negligence is in accordance with law; (b) whether the compensation awarded by the Tribunal is just and reasonable.

9. As regards the first question, it is seen that the respondents/claimants had examined P.W.2, the eyewitness to the occurrence. The evidence of P.W.2 is corroborated by the averments made in the FIR (Ex.P1) and the Final Report (Ex.P5) filed by the police after the investigation. The evidence of R.W.1, the driver of the bus, does not inspire confidence, in view of the evidence of P.W.2, the eyewitness, and the other evidence referred above. Therefore, this Court is of the view



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that the finding of the Tribunal on negligence is justified and no interference is called for. The point no.1 is answered accordingly.

10. As regards the quantum of compensation, it is seen that considering the year of the accident, the Tribunal has fixed the notional income of the deceased at Rs.40,000 per annum, and after adopting the correct multiplier and making the deduction towards personal expenses awarded compensation of Rs.2,30,300/-. The learned counsel for the appellant, State Transport Corporation, is unable to point out any infirmity in the compensation awarded by the Tribunal under any of the heads, except for claiming that it is excessive.

11. The award of the Tribunal at Rs.2,30,300/- is just and reasonable, and therefore, no interference is called for. Hence, the award is confirmed.

12. The appellant, State Transport Corporation, is directed to deposit the compensation of Rs.2,30,300/- together with interest at 7.5% per annum from the date of the claim petition till the date of realization and costs, after deducting the amount already deposited, if any, within a



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period of four weeks from the date of receipt of a copy of this Judgment.

13. On such a deposit, the respondents/claimants are permitted to withdraw the compensation, as per the apportionment fixed by the Tribunal, along with the proportionate interest and costs, less the amount already withdrawn, if any, by filing a suitable application before the Tribunal.

14. In the result, this Civil Miscellaneous Appeal is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

03.09.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order/Non-Speaking Order

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Copy To:

1.The Addl. District & Sessions Judge,
Motor Accident Claims Tribunal (Fast Track Court),
Dindigul, Dindigul District.



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2.The Section Officer,
V.R.Section,
Madurai Bench of Madras high Court,
Madurai.



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SUNDER MOHAN, J.

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