



C.M.A.(MD)No.1797 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : **18.09.2024**

CORAM :

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A(MD)No.1797 of 2013
and M.P(MD)No. 3 of 2013

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam Division) Limited,
46, Railway Station Road,
Kumbakonam

... Appellant/Respondent

Vs.

Dhanalakshmi

.. Respondent/Petitioner

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 12.04.2012 passed in M.C.O.P.No.18 of 2010 on the file of the Motor Accident Claims Tribunal, Kulithalai.

For Appellant : Mr.A.V.B.Krishnakanth

JUDGMENT

The instant appeal challenges the finding on negligence and the quantum of compensation awarded by the Tribunal.



WEB COPY

2. The respondent, since deceased, filed the claim petition stating that while she was taking plastic water pots in a pushcart, a bus belonging to the appellant Corporation came from behind in a rash and negligent manner and dashed against her, as a result of which, she sustained grievous injuries.

3. The appellant herein filed a counter stating that the accident did not take place due to the negligent driving of its bus driver; and that the diesel tank accidentally dashed against the respondent, which caused the accident and therefore, they are not liable to pay compensation.

4. Before the Tribunal, the respondent examined herself as P.W.1 and the doctor as P.W.2 and marked Ex.P.1 to Ex.P.11. The appellant examined R.W.1 and marked Ex.R.1.

5. The Tribunal, after taking into consideration the oral and documentary evidence, awarded a sum of Rs.4,03,485/- as total compensation.



WEB COPY

6. The learned counsel for the appellant submitted that the Tribunal ought not to have believed the evidence P.W.1 and fixed the entire negligence on the appellant; and in any case, the compensation awarded by the Tribunal was excessive.

7. I have given my anxious consideration to the submission made by the appellant and carefully perused the materials available on record. It is represented that the sole respondent is no more.

8. The questions involved in the instant appeal are as follows:

- a) Whether the finding on negligence by the Tribunal is justified; and
- b) Whether the quantum of compensation awarded by the Tribunal is just and reasonable.

9. As regards the first question, it is seen that the respondent/claimant had examined herself as P.W.1 and marked Ex.P.1, the first information report, and Ex.P.5, the final report, which corroborate her version. Further, Ex.P.4, the report of the Motor Vehicle Inspector's report also corroborates the version of the respondent. The appellant had not



produced any contra evidence to prove their version as regards the manner of the accident. The evidence of R.W.1, an interested witness, does not inspire confidence. In the light of the evidence adduced on the side of the respondent, this Court is of the view that the finding on negligence by the Tribunal holding the appellant liable to pay compensation cannot be faulted. The 1st question is answered accordingly.

10. As regards the quantum of compensation, it is seen that the respondent was aged 61 years at the time of the accident; that she was a milk vendor and she was also doing a business of preparing savouries and selling them. Though no documentary evidence was produced to prove the avocation and income, the Tribunal had fixed the notional income at Rs.4500/-, which is reasonable. Considering the nature of injuries suffered by the respondent in the chest and both legs, the evidence of the doctor and the disability certificate, Ex.P.10, the Tribunal adopted multiplier method to award compensation under the head 'loss of earning capacity and loss of future income', which is reasonable. The learned counsel for the appellant is unable to point out any infirmity in adopting multiplier method for granting compensation. The award of



C.M.A.(MD)No.1797 of 2013

compensation under the other heads is also reasonable. Therefore, no interference is called for. Thus, the award of the Tribunal is confirmed.

The question No.2 is answered accordingly.

11. It is submitted by the learned counsel for the appellant that the entire compensation amount was deposited and the claimant has already withdrawn the entire amount with accrued interest.

12. In the result, the appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

18.09.2024

Index : Yes / No
Neutral Citation : Yes / No
CM

To
1.The Motor Accident Claims Tribunal, Kulithalai.

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



WEB COPY



C.M.A.(MD)No.1797 of 2013

SUNDER MOHAN, J.

CM

Judgment made in
C.M.A(MD)No.1797 of 2013
and M.P(MD)No. 3 of 2013

18.09.2024