



C.M.A.(MD)No.343 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : **12.09.2024**

CORAM :

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

C.M.A(MD)No.343 of 2013
and M.P(MD)No.1 of 2013

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd., (Division-2),
At Chennai.

... Appellant/Respondent

Vs.

1.L.Pappathi
2.Vellammal

...Respondents/Petitioners

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 01.12.2006 passed in M.C.O.P.No.104 of 2008 on the file of the Motor Accident Claims Tribunal Judge, Additional District Sessions Court/Fast Track Court No.1, Madurai.

For Appellant : Mr.M.Prakash
For R2 : Mr.K.Samidurai

JUDGMENT

The instant appeal has been filed challenging the finding on negligence and the quantum of compensation awarded by the Tribunal.



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2.The respondents 1 and 2 herein/claimants filed a claim petition stating that on 31.08.1998 at about 9.55 p.m, while the deceased was travelling in a bus which was parked in a bridge, another bus belonging to the appellant came from the opposite side in a rash and negligent manner and dashed against the bus, in which he was travelling, as a result of which, he sustained fatal injuries.

3. The appellant filed a counter denying the averments in the claim petition; and that in any case, the compensation claimed was excessive.

4. The respondents 1 and 2 /claimants examined P.W.1 and P.W.2 and marked Ex.P.1 to Ex.P.4. The appellant neither examined witnesses nor marked documents.

5. The Tribunal, after taking into consideration the oral and documentary evidence, held that the accident took place due to the rash and negligent driving of the driver of the bus belonging to the appellant, and awarded total compensation of Rs.3,33,000/-.



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6. The learned counsel for the appellant submitted that the finding on negligence by the Tribunal is contrary to the evidence on record; and in any case, the compensation awarded by the Tribunal was excessive and prayed for setting aside the award of the Tribunal.

7. The learned counsel for the respondents 1 and 2/claimants, per contra, submitted that the award of the Tribunal is just and reasonable and no interference is called for.

8. This Court gave its anxious consideration to the submissions made by the learned counsel for the appellant and the learned counsel for the claimants. This Court has carefully perused the materials available on record.

9. The points for consideration in the instant appeal are as follows:

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

10. As regards the first point, it is seen that the claimants had



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examined P.W.2, an eyewitness to the occurrence, who had stated that the driver of the bus belonging to the appellant came in the wrong direction and dashed against the bus, in which, the deceased was travelling, which resulted in the death of the deceased; that on the basis of the complaint lodged against the driver of the offending vehicle, a first information report was registered, the averments of which corroborates the version of P.W.2; that the final report, which was marked as Ex.P.2, also confirms the said fact; and that the appellant has not produced any contra evidence to disprove the evidence of the claimants. In the light of the evidence relied upon by the claimants, this Court is of the view that the finding of the Tribunal that the accident took place due to the rash and negligent driving of the offending bus is justified. The point No.1 is answered accordingly.

12. As regards the quantum of compensation, it is seen that the claimants had established that the appellant was working as tea-master. Since no proof of income was produced, the Tribunal fixed a notional income of Rs.3,000/-, which cannot be faulted. After applying the multiplier considering the age of the deceased, the Tribunal had awarded compensation of Rs.3,20,000/- under the head 'loss of income'. After



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adding compensation under the conventional heads, the Tribunal awarded a sum of Rs.3,33,000/- as total compensation. The learned counsel for the appellant is unable to point out any infirmity in the said award of compensation. This Court is of the view that the award of compensation is reasonable. The point No.2 is answered accordingly.

13. The learned counsel for the appellant shall deposit the entire compensation amount with accrued interest at the rate of 7.5% from the date of petition till the date of deposit, less the amount already deposited, if any, within a period of six weeks from the date of receipt of a copy of this judgment. The respondents 1 and 2/ claimants are permitted to withdraw the same as per the apportionment fixed by the Tribunal.

14. In the result, the appeal is dismissed. No costs.

12.09.2024

Index : Yes / No
Neutral Citation : Yes / No
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To

1. Motor Accident Claims Tribunal Judge, Additional District Sessions Court/Fast Track Court No.1, Madurai.

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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Judgment made in
C.M.A(MD)No.343 of 2013
and M.P(MD)No.1 of 2013

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