



CMA.(MD)No.143 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 26/04/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

CMA (MD) No.143 of 2022

and

CMP (MD) No.1323 of 2022

M/s.Tamilnadu State Transport Corporation
Limited,
Rep. by its Managing Director,
No.2, Thiruvananthapuram Road,
Vannarapettai,
Tirunelveli.

: Appellant/Respondent

Vs.

1.Rajeshwari
2.Minor Pool Kumar
3.Minor Hariharan
(Minor respondents 2 and 3
are represented through
their mother/natural guardian
1st respondent herein)

4.Esakki Konar

: Respondents/Claimants

PRAYER:-Civil Miscellaneous Appeal is filed under section 173 of the Motor Vehicles Act, 1988, to call for the records relating to the Award, dated 28/02/2020 passed in MCOP No.1478 of 2018 by the Motor Accident Claims Tribunal (III-Additional District Court), Tirunelveli and to set aside the same and to pass such other further reliefs.

For Appellant : Mr.R.Rajamohan

For Respondents : Mr.T.Selvakumaran



CMA.(MD)No.143 of 2022

O R D E R

This Appeal is filed seeking to set aside the judgment and decree, dated 28/02/2020 passed in MCOP No.1478 of 2018 by the Motor Accident Claims Tribunal/III-Additional District Court), Tirunelveli.

2.The facts in brief:-

On 23/07/2018 at about 08.30 pm, the deceased was proceeding from north to south direction on the Bye-Pass road near Ruchi Hotel. At that time, the Bus bearing registration No.TN-72-N-2016 was driven by its driver in a rash and negligent manner in the opposite direction and hit the deceased. He sustained multiple injuries, taken to the TVMC Hospital, Tirunelveli. But on the way to the hospital, he died. A case in Crime No.225 of 2018 was registered for the offences under sections 279 and 304(A) IPC against the first respondent's vehicle driver. Claiming compensation amount, the claimants filed the claim petition.

3.That was resisted by the appellant herein stating that the deceased suddenly crossed the road and invited the occurrence, as such the first respondent vehicle driver is no way responsible. Other customary denials are made.



WEB COPY

4.Before the Tribunal, on the side of the claimants, 2 witnesses were examined and 3 documents marked. On the side of the Insurance Company, no oral and documentary evidence is adduced and no document was marked.

5.At the conclusion of the enquiry, the Tribunal came to the conclusion that only due to the rash and negligent driving of the driver of the 1st respondent Bus the occurrence took place and awarded a total compensation of Rs.16,82,000/-.

6.Regarding the first point, the Tribunal has recorded a finding that the eye witness to the occurrence namely PW2 corroborated the averments made in the FIR. PW2 has stated in his evidence that only because of the rash and negligent driving of the appellant vehicle driver, the occurrence took place. The appellant/1st respondent has not chosen to examine its driver. In the absence of any direct evidence from the driver of the appellant Transport Corporation, adverse inference was drawn.

7.So from the averments made in the complaint and the petition, it is seen that the deceased was riding his vehicle from north to south direction. The appellant



vehicle came in the opposite direction. So, the manner in which the occurrence took place also indicates the fault of the driver of the appellant Bus driver. The Tribunal recorded a correct finding. So, no interference is called for.

8.Regarding the compensation, the appellant makes objections. Regarding compensation portion, the Tribunal found that the deceased was working in a sugarcane juice shop. There was no corroborating evidence to show the same. So, in the absence of any material evidence to show the correct income, but in the FIR, it is mentioned that he was working as employee in a Sugarcane Juice shop. Considering the age of the deceased, the notional income was fixed at Rs.8,000/- which in the considered view of this court is not on the higher side. Even a daily wager gets Rs.600 to Rs.700/- per day. To this amount, added future prospect norms. Finally, the monthly income was arrived at Rs.11,200/-. Correct multiplier was also adopted considering the age. Other customary amount have also been added. It finally arrived at a total compensation of Rs.16,82,000/-. I am of the considered view that absolutely it is not on the higher side. Quantum has been reasonably fixed by the Tribunal, which requires no interference by this court.



CMA.(MD)No.143 of 2022

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

26/04/2024

Index:Yes/No
Internet:Yes/No
er

To,

1. The Motor Accident Claims Tribunal/
III Additional District Court,
Tirunelveli.
2. The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CMA.(MD)No.143 of 2022

G.ILANGO VAN, J

er

CMA (MD) No.143 of 2022

26/04/2024