



CMA.(MD)No.548 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 30/07/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

CMA (MD) No. 548 of 2024

and

CMP (MD) No. 7011 of 2024

The Managing Director,
Tamil Nadu State Transport Corporation,
Bye Pass Road,
Madurai. : Appellant/Respondent

Vs.

1.Ramachandran
2.Mariyammal : Respondents/Petitioners

PRAYER:- Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the order, dated 07/03/2023 passed in MCOP No.1681 of 2019 on the file of the Motor Accident Claims Tribunal (Special District Judge), Madurai.

For Appellant : Mr.K.Sudalaiyandi

For Respondents : Mr.S.Pugalendhi

JUDGMENT

This Civil Miscellaneous Appeal is filed to set aside the award, dated 07/03/2023 passed in MCOP No.1681 of 2019 by the Motor Accident Claims Tribunal (Special District Judge), Madurai.



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2. The facts in brief:-

On 08/11/2017 at about 09.00 pm, the deceased Ranjithkumar and Pandi were travelling as pillion riders in a two wheeler bearing registration No.TN-59-BB-2617 driven by one Velmurugan on the Alagarkovil road. When they were nearing the place of occurrence at about 09.30 pm, a Government Corporation Bus bearing registration No.TN-67-N-0816 driven by its driver in a rash and negligent manner from the opposite direction and hit the two wheeler. As a result of which, all the three persons fell down, sustained injuries. Ranjithkumar died on the spot, so also Velmurugan. The other person Pondi was taken to the hospital.

3.A case in Crime No.735 of 2017 was registered against the appellant vehicle driver. The deceased was aged about 20 years and earning Rs.30,000/- per month by working as Mason. He was unmarried. The claimants are the parents of the deceased Ranjithkumar. Claiming compensation of Rs.30,00,000/-, the claim petition was filed.

4.That was resisted by the appellant herein by filing counter stating that the appellant vehicle driver by observing proper traffic regulations carefully after



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proper signal turned to Othakadai road from Trichy-Madurai main road. At that time, the rider of the two wheeler with two pillion riders came in the opposite direction in a high speed and in-spite of stopping the vehicle, the rider of the two wheeler hit the Bus, fell down and sustained injuries.

5.Before the Tribunal, on the side of the claimants, 2 witnesses were examined and 9 documents were marked. On the side of the respondents, one witness was examined, but no document was marked.

6.Regarding the first aspect of negligence, the Tribunal recorded a finding that it occurred due to the rash and negligent act on the part of the appellant Bus driver.

7.Regarding the compensation, the notional income Rs.18,000/- was taken. His age was fixed at 20. To that , future prospects was added at 40%. Multiplier '18' was adopted. 50% was deducted towards the personal and living expenses. Loss of Dependency was fixed at 12,09,600/-. To that, conventional amounts were added. Finally, it arrived at the following figure:-



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Loss of Dependency	Rs.12,09,600/-
Filial consortium	Rs. 80,000/-
Transport expenses	Rs. 5,000/-
Funeral expenses	Rs. 15,000/-
Loss of estate	Rs. 15,000/-
Total	Rs.13,24,600/-

8.Against which, this appeal is preferred by the appellant.

9.Heard both sides.

10.The learned counsel appearing for the appellant would submit that the deceased was riding the two wheeler with two pillion riders in a negligent manner. So, he also contributed towards negligence. PW2 is the eye witness. He also confirmed the contributory negligence on the part of the deceased.

11.Per contra, the learned counsel appearing for the respondents would submit that without making any indication of turning towards right, the appellant Bus driver who came from north to south direction, without noticing the vehicle coming in the opposite direction, turned the vehicle, as a result of which only the occurrence took place.



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12.Regarding the first aspect of negligence, we will go to the evidence on record.

13.PW2 is the eye witness. He has stated in his evidence that the occurrence took place due to rash and negligent driving on the part of the appellant Bus driver, since he turned abruptly without making any indication.

14.RW1 is the Conductor of the Bus. He has stated that the very same fact as narrated in the counter. The driver of the Bus was not examined before the Tribunal. The manner of the occurrence indicates that when the driver of the Bus turning towards right, he ought to have made signal in a proper manner by making indication or slow down the vehicle. It appears that two persons died on the spot, which indicates the degree of impact. The manner of the accident does indicate the rash and negligent driving on the part of the appellant driver.

15.The learned counsel appearing for the appellant would submit that travelling three persons in a two wheeler is sufficient enough to see that they were also contributed negligence towards the accident.



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16.Per contra, the learned counsel appearing for the respondents would submit that simply because three persons travelling in a two wheeler will not contribute negligence to the occurrence. Even if we see that the deceased rider contributed negligence, that will not have any impact upon compensation awarded to the claimants, who are the parents of the deceased namely Ranjithkumar. So no discussion is required with regard to the contributory negligence in this aspect.

17.There is no evidence on record to show that the rider of the dependents also filed the claim petition. To avoid any conflict of observation, I am consciously avoiding further discussion in this matter. So, this argument is not available to the appellant herein.

18.Regarding the compensation, there is no counter appeal or cross appeal. But however, the learned counsel appearing for the respondents would submit that compensation amount fixed by the Tribunal is meagre, it must be enhanced. He is relying upon the judgments reported in (i)Andal Vs. Avinav Kannan [2019(1)TN MAC 54(DB); and (ii)Brach Manager, National Insurance Co., Ltd., Vs. A.Rabikabanu [2022(2)TN MAC 427].



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19. But the assessment of compensation made by the Tribunal requires no interference. There is no indication or document to show that the deceased was working as Mason. The notional income was rightly fixed at Rs.8,000/- considering his age. Other customary amounts were properly decided. So, I find no reason to enhance the compensation amount.

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

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Index:Yes/No
Internet:Yes/No
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To,

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



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G.ILANGOVAN, J

er

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