



C.M.A.(MD).No.814 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN
and

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

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and

C.M.P.(MD).No.11514 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Madurai. ... Appellant/2nd respondent

Vs.

T.Chellasamy(died)

1.Baby

2.Chenthil Kumar

3.Amutha

4.S.Sunitha ... Respondents 1 to 4/Petitioners 2 to 5

5.Daniel ... 5th respondent/1st respondent

Prayer: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, 1988, against the judgment and decree dated 05.08.2022 passed in M.C.O.P.No.100 of 2014, on the file of the Motor Accident Claims Tribunal-cum-Sub-Court, Kuzhithurai.



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(Prayer is amended as per the order of this Court dated 14.12.2023 made in C.M.P(MD)No.15724 of 2023 in C.M.A(MD)No.814 of 2023 by TKRJ & PBBJ)

For Appellant : Mr.S.Michael Heldon Kumar

For R-1 to R-4 : No Appearance

J U D G M E N T

(Judgment of the Court was delivered by

V.BHAVANI SUBBAROYAN, J.)

This Civil Miscellaneous Appeal has been filed by the appellant/Transport Corporation against the award of the Motor Accident Claims Tribunal-cum-Sub-Court, Kuzhithurai, passed in M.C.O.P.No.100 of 2014, dated 05.08.2022.

2. It is a case of fatal accident, which took place on 26.06.2011 at about 9.00 a.m., near Chirayankuzhi junction.

3. It is the case of the claimants before the Tribunal that on the date of accident, while the deceased by name C.Sekhar was riding TVS Apachees Motor Cycle bearing Registration No.TN 75 E 2194 from



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Eraviputhoorkadai to Marthandam on the left side of the road by observing traffic Rules, near Chirayankuzhi Junction, the bus bearing Registration No.TN 30-N-1014 of Madurai Regional T.N.S.T.C., which was coming on the opposite side from Marthandam to Madurai, with high speed, dashed against the motor cycle and threw away the deceased and on the way to the hospital, the deceased succumbed to the injuries.

4. The parents of the deceased filed an application in M.C.O.P.No.100 of 2014 on the file of the Motor Accident Claims Tribunal-cum-Sub-Court, Kuzhithurai, seeking compensation. During pendency of the claim petition, the father of the deceased died and his legal heirs, who is the mother, brother and sisters of the deceased were brought on record.

5. Before the Tribunal, the claimants examined two witnesses as P.Ws.1 and 2 and marked thirteen documents as Ex.P.1 to Ex.P.13. On the side of the respondents, one witness was examined as R.W.1 and no document was filed on their side.



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6.The Tribunal, after considering the pleadings, oral and documentary evidence and the arguments advanced on either side and also appreciating the evidence on record, held that the accident occurred only due to the rash and negligent driving of the driver of the T.N.S.T.C., bus and held that the driver of the bus and the T.N.S.T.C., are jointly and severally liable to pay compensation amount and awarded compensation of Rs.23,48,000/-.

7. Against which, the appellant/Transport Corporation filed this present appeal challenging the quantum.

8. According to the learned counsel for the appellant, there was no document produced to fix the income of the deceased. However, without any document, on the basis of the licence marked on the side of the claimants, the Tribunal fixed the monthly income of the deceased notionally at Rs.15,000/-, which is not sustainable and as on the date of accident, fixing a sum of Rs.10,000/- would be reasonable, the learned counsel submitted, for which, the produced a number of precedents.



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9. This Court considered the said submission of the learned counsel for the appellant and hence, reduced the monthly income of the deceased from Rs.15,000/- to Rs.10,000/-. It is seen that the Tribunal failed to award future prospects and hence, this Court is inclined to grant a sum of Rs.4,000/- towards future prospects. Since the age of the deceased was found to be 29 years at the time of accident, the appropriate multiplier to be applied as per the ***Smt.Sarla Verma .vs. Delhi Transport Corporation reported in 2009(2) TN MAC 1(SC)*** case, is '17'. Further, the Tribunal deducted 1/4th towards personal expenses. Since the deceased was a bachelor at the time of accident, as per ***Sarla Varma's*** case, this Court is inclined to deduct 50% towards personal expenses. The monthly loss of income after deduction would be Rs.10000 + 4000 - 50% = Rs.7,000/- and therefore, the loss of dependency would be Rs.7,000/- x 12 x 17 =Rs.14,28,000/-. Insofar as the consortium is concerned, no amount has been awarded. Therefore, this Court is inclined to award a sum of Rs.40,000/- each to the respondents 1 to 4/claimants under the head 'consortium' and the other heads are confirmed.



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13. In view of the above, this Court reduces the award of the Tribunal, as under:-

S.No	Description	Amount awarded by Tribunal (Rs)	Amount awarded by this Court (Rs)	Award confirmed or enhanced or granted
1.	For loss of income	22,95,000	14,28,000	reduced
2.	For consortium	-	1,60,000/- (Rs.40,000/- x 4)	awarded
3.	For loss of Estate	16,500	16,500	confirmed
4.	For Transport expenses	20,000	20,000	confirmed
4.	For Funeral expenses	16,500	16,500	Confirmed
	Total	Rs.23,48,000	Rs.16,41,000	By reducing a sum of Rs.7,07,000/-

14. In the result,

(i) This Civil Miscellaneous Appeal is partly allowed, reducing the award of the Tribunal from Rs.23,48,000/- (Rupees Twenty Three Lakhs and Forty Eight Thousand Only) to a sum of **Rs.16,41,000/-** (Rupees Sixteen Lakhs and Forty One Thousand only) along with interest



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at the rate of 7.5% per annum from the date of petition till date of realisation and proportionate costs;

(ii) The appellant shall deposit the modified award amount to the credit of M.C.O.P.No.100 of 2014, on the file of the Motor Accident Claims Tribunal-cum-Sub-Court, Kuzhithurai, after deducting the amount already deposited if any, within a period of twelve weeks from the date of receipt of a copy of this order. On such deposit being made, the claimants are permitted to withdraw their respective shares as apportioned by the Tribunal, with proportionate interests and costs.

(iii) If there is any excess amount deposited by the appellant, the appellant is entitled to refund of the same.

No Costs. Consequently, connected Miscellaneous Petition is closed.

[V.B.S.,J.] [K.K.R.K.,J.]
15.03.2024

Index : Yes/No
NCC : Yes/No
PM/sbn



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To
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- 1.The Motor Accident Claims Tribunal-cum-Sub-Court,
Kuzhithurai.
- 2.The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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V.BHAVANI SUBBAROYAN,J.
and
K.K.RAMAKRISHNAN,J.

PM/vsg

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