



C.M.A(MD)No.652 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 27.03.2024

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

C.M.A(MD)No.652 of 2022

and

C.M.P(MD)No.5644 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation Limited,
Kumbakonam Division II Limited,
Periyamilaguparai,
Trichy.

... Appellant

Vs.

1. M. Susela
2. M. Manimegalai
3. M. Vijayaragavan
4. M. Vigneshwari
5. M. Balaji
6. R.Manikandan [Died]

... Respondents

PRAYER: Civil Miscellaneous Appeal is filed under Section 173 of the Motor Vehicles Act, to set aside the impugned award passed in M.C.O.P No. 757 of 2018 dated 07.11.2020 on the file of the Motor Accidents Claims Tribunal/Principal District Court, Karur.



C.M.A(MD)No.652 of 2022

For Appellant : M/s.P.M.Vihnuvarthanan
For R-1 to R-5 : Mr.L.Prabakaran
R-6 : Died

JUDGEMENT

This Transport Corporation/Appellant has preferred this Civil Miscellaneous Appeal against the award passed in M.C.O.P No. 757 of 2018, dated 07.11.2020 on the file of the Motor Accidents Claims Tribunal/Principal District Court, Karur.

2. The 6th respondent herein died. The Learned Counsel appearing for the Appellant submitted that the respondent Nos.1 to 5 herein are legal heirs of the deceased 6th respondent. The said submission is recorded.

3. It is a case of fatal. The contention of the appellant is that three persons were travelling in the two-wheeler, thereby the deceased has violated the traffic Rules and Regulations. Moreover, the deceased died due to head injury and hence it is evident that the deceased was not wearing helmet. Further the deceased was not having valid driving



C.M.A(MD)No.652 of 2022

license at the time of accident. The Tribunal had fixed contributory negligence on the part of the deceased, but the contention of the Transport Corporation is that the contributory negligence ought to be fixed as 40%.

4. After hearing the arguments, further this Court is inclined to fix the contributory negligence in terms of money to the tune of Rs.1 Lakh for the three violations as stated supra, along with 10% contributory negligence which was fixed by the Tribunal. The Tribunal has granted a sum of Rs.13,01,400/-(including deduction of 10% contributory negligence), as compensation and this Court is also inclined to deduct a sum of Rs.1 Lakh from the total compensation of Rs.13,01,400/- i.e., $\text{Rs.13,01,400} - 1,00,000 = \text{Rs.12,01,400/}$.

5. Accordingly, the award passed in M.C.O.P No.757 of 2018, dated 07.11.2020 on the file of the Motor Accidents Claims Tribunal/Principal District Court, Karur, is hereby modified to that extent as stated supra. The Appellant is directed to deposit a sum of Rs.12,01,400/-as compensation, less the amount, if already deposited,



C.M.A(MD)No.652 of 2022

along with 7.5% of interest and costs, within a period of 12 weeks from the date of receipt of a copy of the order. Since the 2 to 5 claimants got married they are not entitled to get any compensation. On such deposit being made, the 1st claimant is permitted to withdraw the same, as per Law.

6. With these observations, this Civil Miscellaneous Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

27.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

KSA



C.M.A(MD)No.652 of 2022

WEB COPY

To

1. The Motor Accidents Claims Tribunal/
Principal District Court,
Karur.
2. The Section Officer,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.M.A(MD)No.652 of 2022

S.SRIMATHY, J.

KSA

**Order made in
C.M.A(MD)No.652 of 2022**

27.03.2024