



CMA(MD).No.661 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

C.M.A. (MD).No.661 of 2022

and

C.M.P. (MD).Nos.5697 and 12836 of 2022

The Managing Director,
Tamil Nadu Transport Corporation,
Kumbakonam

... Petitioner

Vs

1. Seethalakshmi,
2. Minor.Harini,
3. Minor.Duraisethupathi,
4. Lakshmi,
5. Thiruvettai,

... Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the to set aside the impugned award passed in MCOP.No.292 of 2019 on the file of the MACT (Additional Sub-Court),Kumbakonam dated 04-09-2020.

For Appellant : Mr. P.M.Vishnuvarthanan

For Respondents : Mr. C.Arumozhi Raja Shankar



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JUDGMENT

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The appellant is the Transport Corporation.

2. It is a case of fatal. The contention of the Transport Corporation is that the deceased has also committed a tort. This plea was taken before the Tribunal, but the same was not considered. The Transport Corporation has heavily relied on the final report submitted by the Investigating Officer, who has categorically stated that the mistake was committed by the deceased, who was driving the car.

3. But the learned Counsel appearing for the claimants submitted that the same was taken for consideration by the Tribunal, but it was negatived, since the investigation Officer has not enquired the defacto complainant as well as the other person, who was injured in the same accident.

4. Therefore, this Court proceeded to scrutinize the sketch, which was not submitted before the Tribunal. On seeing the same, it is seen that the bus was travelling from Manamadurai to Paramakudi and the bus had



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kept left. It is seen that the Maruthi Car has crossed the meridian and thereafter, the accident has occurred on the extreme left. In such circumstances, the accident has occurred due to the mistake of the car and the Transport Corporation is not fully liable.

5. Hence, the contributory negligence is fixed in money value to the tune of Rs.2,35,400/-. Therefore, the modified compensation granted by this Court is as under:

Compensation granted by the Tribunal = Rs.20,35,400/-

Deducting contributory negligence = - Rs.2,35,400/-

Compensation granted by this Court = Rs.18,00,000/-

Thus, the compensation granted by the Tribunal to the tune of Rs. 20,35,400/- is reduced to Rs.18,00,000/- by this Court.

6. The appellant Transport Corporation is directed to deposit a sum of Rs.18,00,000/- (Rupees Eighteen Lakh only) along with interest at the rate of 7.5% per annum and costs to the credit of M.C.O.P., on the file of the claims Tribunal, less the amount already deposited, if any, within a period of twelve weeks from the date of receipt of a copy of this judgment. On



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such deposit, the claimants are permitted to withdraw their shares (the claimants 1 to 5 are entitled to get Rs.4,50,000/-, Rs.5,30,000/- Rs. 5,30,000/-, Rs.1,80,000/-, Rs.1,10,000/- respectively) with proportionate accrued interests and costs, less the amount already withdrawn by them, if any, by filing appropriate application before the Tribunal. The Tribunal is directed to deposit the shares of the minor children in a nationalized bank until the children attains majority. The first respondent herein, who is the mother/guardian, is permitted to withdraw the interest amount once in three months. Once the minor claimants attain majority, they are permitted to withdraw their shares with accrued interest.

6. With this modification, this civil miscellaneous appeal is partly allowed. No costs. Consequently, the connected miscellaneous petitions are closed.

12.03.2024

Index : yes / No
Internet : yes / No

LR

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To

1.The Motor Accident Claims Tribunal
(Additional Sub-Court), Kumbakonam.

2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

LR

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